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**RECIRCULATED DRAFT
ENVIRONMENTAL IMPACT REPORT**

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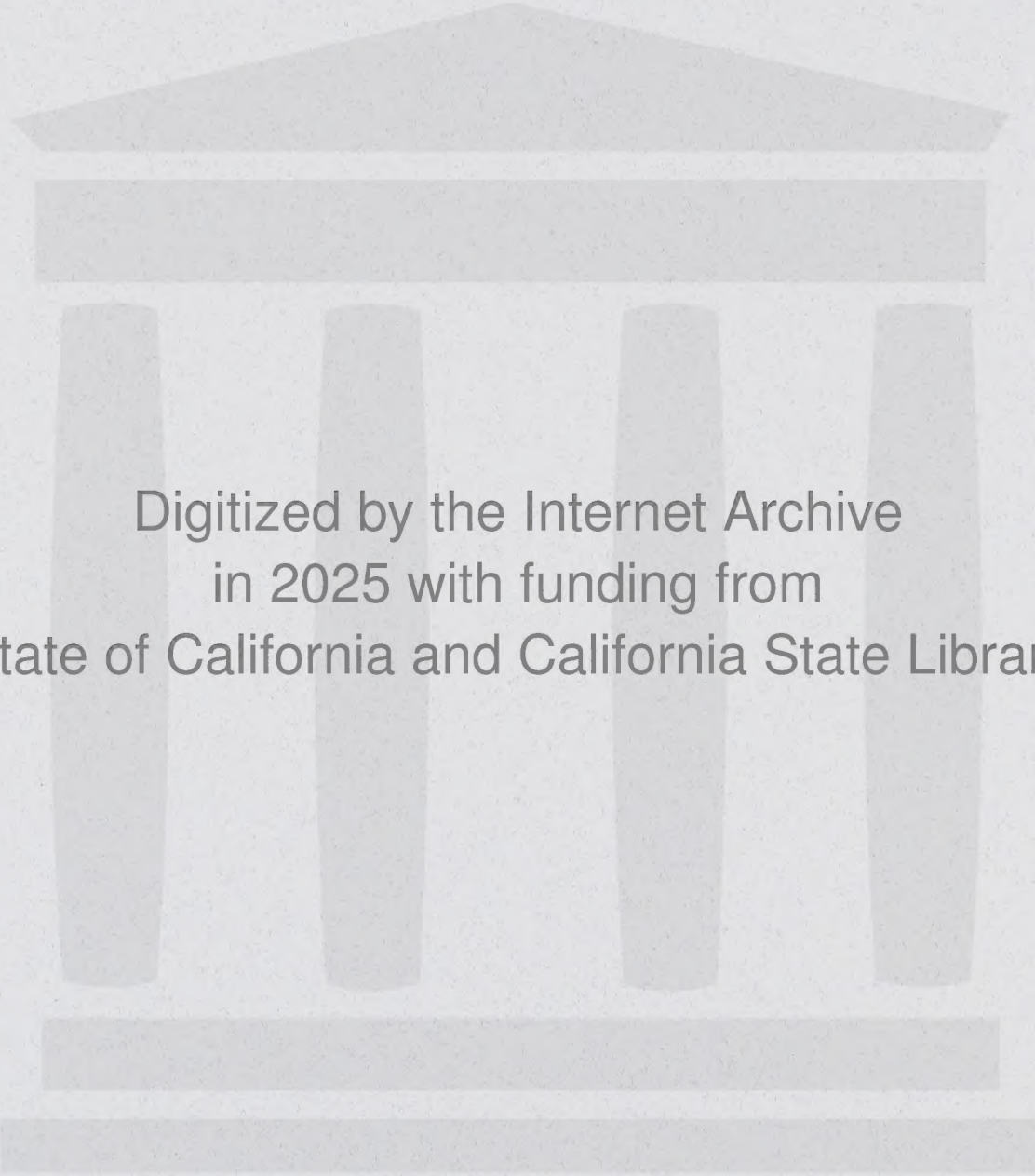
GREENLINE/URBAN GROWTH BOUNDARY

**CITY OF SAN JOSE
SPHERE OF INFLUENCE**

SCH #97122060

**Prepared by the
CITY OF SAN JOSE**

December 1999



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I. LIST OF AGENCIES AND INDIVIDUALS RECEIVING COPIES OF THE RECIRCULATED DRAFT EIR

Copies of the Recirculated Draft EIR were sent to the following:

Federal Agencies

U.S. Environmental Protection Agency
U.S. Fish and Wildlife Service

State Agencies

Caltrans District 4
Bay Area Air Quality Management District
San Francisco Bay Regional Water Quality Control Board

Regional Agencies

Metropolitan Transportation Commission
Santa Clara Valley Water District
Santa Clara Valley Transportation Authority

County Agencies

Planning Department
Department of Parks and Recreation
Department of Roads and Airports
Historical Heritage Commission

Local Agencies

City of Morgan Hill
San Jose City Main Library
Evergreen Branch Library

Organizations and Individuals

Sierra Club
Audubon Society
Native Plant Society
Guadalupe Coyote Resource Conservation District
Joanna Callanbach
Youngsville Holdings
Edenvale Holdings
Burnell Richmond
Sheppard Mullin Richter Hampton
Youngsville Dev., Inc.

II. LIST OF AGENCIES AND INDIVIDUALS COMMENTING ON THE RECIRCULATED DRAFT EIR

Comment letters have been received from the following individuals. Complete copies of the letters themselves are included in this amendment, in Section V.

Sheppard, Mullin, Richter & Hampton

Included with this letter were letters/memoranda from the following:

Smith Engineering

Mundie & Associates

III. REVISIONS TO THE TEXT OF THE RECIRCULATED DRAFT EIR

- 30 Section II.H. Transportation, Existing Setting; Traffic Conditions, **ADD** the following new paragraph after the only paragraph in this section:

The most recent CMP Annual Monitoring Report identified one segment of U.S. 101 outside the UGB and within San Jose's Sphere of Influence that is presently operating at an unacceptable level of congestion (identified as LOS F by the CMP). Northbound U.S. 101, between Cochrane and Scheller, operates at LOS F in the AM peak hour.

IV. RESPONSES TO COMMENTS RECEIVED ON THE RECIRCULATED DRAFT EIR

OVERVIEW OF COMMENTS RECEIVED

Comments received by the City on the RDEIR prepared for adoption of a UGB/Greenline for San Jose's Sphere of Influence consisted of a single letter from the Sheppard, Mullin, Richter & Hampton law firm, with several attachments. Two of the attachments included memoranda written by other persons and addressed to the Sheppard, Mullin law firm. Each of the letter/attachments is responded to individually below. In addition, two volumes of appendices consisting of various documents referred to in the comment letter were also submitted.

The comment letter and its attachments are based on a single assumption which is factually incorrect. The comment letter confuses the North Coyote Valley Campus Industrial Area with the Coyote Valley Urban Reserve. These are two separate, distinct areas identified within the City's General Plan. The information in the comment letter regards a recent Planned Development rezoning application received by the City of San Jose and a Notice of Preparation of an EIR circulated by the City for the rezoning. The PD rezoning was filed for a project entitled "Coyote Valley Research Park", which includes development proposed by Cisco Systems. The documents submitted with the rezoning application, and the map attached to the NOP, all clearly show the proposed rezoning project site as being in North Coyote Valley, inside the City's existing USA boundary, inside the City's corporate limits, and inside the proposed UGB, at a location immediately north of the boundary of the Coyote Valley Urban Reserve (CVUR).

Nevertheless, the following letters and memoranda all state their writers' belief that the PD zoning is located within the CVUR, and the proposed rezoning represents a significant change in all of the underlying assumptions about the development of jobs in the CVUR and timing for buildout of the CVUR. While there are numerous inaccuracies in the comments, the comments are uniformly incorrect and fundamentally flawed in assuming that the area designated for *Campus Industrial* development is or was ever included in the Urban Reserves.

It is not clear how these letter writers could arrive at this conclusion, considering the correct information is explicitly identified in the General Plan. The following information is provided for the record:

- The General Plan land use designation of *Campus Industrial* was applied to approximately 1,440 acres of vacant land in North Coyote Valley in 1983, subsequent to the findings of a special Task Force appointed by the Mayor, and preparation of an Environmental Impact Report.
- Most of the land so designated was subsequently rezoned to Planned Development to allow development with Campus Industrial uses in 1983 and 1984, after preparation of project specific EIRs.
- A Master Development Plan for all 1,440 acres of North Coyote Valley was the subject of an EIR and was subsequently approved by resolution of the City Council in 1985.

- PD Permits for specific developments were approved in North Coyote Valley in the late 1980's. Tentative Maps were approved on the property, and an assessment district for construction of some of the infrastructure was formed.
- In 1998, new PD Permits were issued for two different development sites, based on the existing PD zoning.
- In 1998, the General Plan was amended to revise the Land Use/Transportation Diagram for the street pattern in North Coyote Valley and to modify some of the development parameters. General Plan text was also modified to specify the total number of jobs (50,000) that had been referred to indirectly in the text before.
- The land now designated as the Coyote Valley Urban Reserve (CVUR) was first designated as an urban reserve in 1984. It never included the North Coyote Valley *Campus Industrial* lands within its boundary.

This background information will be referenced in responding to the comments below.

A. RESPONSE TO LETTER FROM SHEPPARD, MULLIN, RICHTER & HAMPTON LLP, DATED DECEMBER 3, 1999:

COMMENT #1: This firm represents the owners of Young Ranch and the Richmond Ranch, which includes tracts of undeveloped land that will be affected by the proposed Greenline/Urban Growth Boundary (the "UGB"). The purpose of this letter is to provide you with our comments on the Recirculated Draft Environmental Impact Report (the "RDEIR") dated October, 1999.

A. SUMMARY OF COMMENTS

The purpose of an environmental impact report is to inform decision makers and the general public of the environmental effects of a proposed project. The RDEIR does not fulfill this function because it fails to consider numerous potential significant environmental impacts of the proposed UGB. These deficiencies are summarized as follows.

RESPONSE #1: Each of the comments in the letter is responded to individually below.

COMMENT #2: 1. Impacts Outside UGB. The RDEIR falls to consider potential impacts of the proposed UGB on the lands outside of the UGB but within the sphere of influence of the City. Judge Nichols specifically ordered the City to consider such impacts. But the RDEIR does not consider even the most obvious of these. The proposed UGB creates tremendous pressure for growth in the Coyote Valley Urban Reserve. The proposed UGB is drawn tightly around the current Urban Service Area (the "USA") of the City, cutting off most areas for urban expansion (that is its stated purpose). However, the proposed UGB extends outward, beyond the USA, at the Southeastern corner of the City to encompass the Coyote Valley Urban Reserve (in addition to the Almaden Valley Urban Reserve). This extension of the UGB beyond the current USA is shown as the cross-hatched area to the Southeast on Figure 2 of the RDEIR. Permitting urban development in this large cross-hatched area and in the Almaden Valley Urban Reserve, while at the same time closing off most other areas for large scale development in San Jose, promotes accelerated development of these areas that will have impacts on the adjacent lands outside of the UGB. These

impacts include increased traffic congestion on the already crowded nearby arterials (U.S. 101, Monterey Highway and Santa Teresa Boulevard), impacts on wildlife, air quality and noise, and pressure for development of roads, schools, power plants, housing and supporting facilities. The RDEIR should have considered these impacts and looked at alternatives to the project that would mitigate or eliminate these impacts.

RESPONSE #2: This comment is not clear. While the statement is made that the RDEIR does not address impacts outside the UGB, most of the comment itself actually discusses the Coyote Valley Urban Reserve (CVUR). The CVUR is within the UGB and the previously prepared EIR discusses impacts likely to result from development within the CVUR. The RDEIR even points out that development may occur earlier in the Coyote Greenbelt, south of the CVUR, because it is flatter, generally served by existing streets, and does not require such extensive geotechnical investigations or mitigations.

The comment does refer to the potential for impacts on adjacent land outside the UGB, and gives examples of where such impacts might occur. It is not correct that the EIR, as supplemented by this RDEIR, does not address the impacts immediately adjacent to the UGB. Such impacts were explicitly addressed in the previously prepared DEIR and FEIR. [It should be noted in this context that the same letter writer, in a comment letter dated June 29, 1998, criticized the previous EIR because it “Unlawfully and Arbitrarily Focuses Analysis Solely on the Intensification Corridors, Urban Reserves and the UGB Interface” (page 43 of the *First Amendment to the Environmental Impact Report*, and elsewhere).]

The comment seems to be stating that the RDEIR failed to address impacts on U.S. 101, Monterey Highway, Santa Teresa Boulevard, wildlife and various urban services in some way connected to development in the Coyote Valley Urban Reserve. The letter writer’s attention is directed to the previously prepared EIR for a discussion of impacts within the CVUR itself, since that area was both explicitly addressed and implicitly evaluated in the previously prepared EIR. [DEIR pages 1, 3, 24, 26, 28, 35, 36, 39, 45, 47, 55, 59, 65, 71, 75, 77, 79, 81, 86, 87, 103, 104, 106, 141, and others.]

The statement that the adoption of the UGB is “closing off most other areas for large scale development in San Jose” is incorrect. The UGB reinforces existing policies regarding urban development in San Jose’s Sphere of Influence, and adopts new procedural requirements for changing the planned land uses of certain lands long considered unsuitable for urban development by the City and County. Since the UGB does not in any way change the amount of development that could occur inside the UGB, it cannot create new or more intense impacts outside the UGB, as this statement appears to be implying. The UGB also does not relax the requirements for any future development in the CVUR, which have been in the City’s adopted General Plan for several years.

COMMENT #3: 2. New Information . The RDEIR incorrectly concludes that the previously prepared Final Environmental Impact Report for the UGB (the "FEIR") is "still adequate for the purposes of the proposed project except for the analysis of impacts outside the UGB, as required by the Court; and the discussion of Cumulative Impacts, in order to reflect the 1999 Annual Review of the City's General Plan." (RDEIR at page 111.) In fact, the FEIR is not "still adequate." The FEIR did not include any discussion of the potential impacts resulting from extending the UGB beyond the current USA to encompass the Coyote Valley Urban Reserve. The authors of the FEIR excluded consideration of these impacts based upon a fundamentally flawed assumption that "[t]he Coyote Valley Urban Reserve is not predicted to develop prior to 2020." (Draft EIR of May 1998, page 27.) According to the authors of the Draft EIR, "[a]doption of the UGB will not cause or enable any development in the Urban Reserves" *Id.*

The error of this assumption is now apparent. By including the Coyote Valley Urban Reserve as one of the last major developable areas within the UGB, it has been targeted for development. During the brief period that the UGB was in effect prior to being set aside by the Superior Court, plans to develop the area quickly surfaced. Specifically, the City accepted an application from Coyote Valley Research Park LLC to rezone a 688 acre portion of the Coyote Valley Urban Reserve to permit development of an industrial campus for Cisco Systems which is intended to house 20,000 new jobs. This proposal was made well before the preparation of the RDEIR. The RDEIR should have considered the impacts of extending the UGB beyond the USA to encompass the Coyote Valley Urban Reserve, including the dramatically accelerated (by 20 years or more) development of that area, and considered alternatives to mitigate or eliminate those impacts. Moreover, CEQA requires that the growth inducing impacts of the UGB be adequately analyzed in the environmental document. The UGB has induced accelerated growth in the Coyote Valley Urban Reserve, the impacts of which are legally required to be addressed in the RDEIR.

RESPONSE #3: This comment reflects a critical misunderstanding of both the boundary of the CVUR and the location of the Cisco Systems project in North Coyote Valley (see overview at the beginning of this section). The *Campus Industrial* lands which are the subject of a proposed Planned Development rezoning application filed by Cisco Systems is *not now and never has been within the CVUR*. The 688 acres which are the subject of the rezoning have been within the City's USA for over 15 years, are within the proposed UGB, are already zoned for urban development, and have been the subject of recent (1998) site and architectural approvals. EIRs were prepared on the designation and development of these lands for urban uses in 1983. The principle differences between this proposed PD rezoning and the existing PD zoning on the property (and the stated purpose of rezoning the property at all) are: (1) the proposed rezoning would leave Fisher Creek in its existing alignment (instead of relocating it as shown in the existing zoning); (2) some of the building setbacks are different; (3) building height is increased; and (4) some road alignments are changed. The number of employees/development intensity would remain unchanged from what was assumed in the existing PD zoning and what is specified in the existing General Plan.

This letter refers to Figure 2 in the RDEIR, which shows the CVUR as cross hatched. This letter also includes as an attachment the Notice of Preparation prepared by the City for the proposed Cisco Systems rezoning, which

includes a map that clearly shows the proposed rezoning as *not* being within the cross hatched area.

It should also be noted here that any future proposal to develop in the CVUR must, as clearly specified in the General Plan, be preceded by the occurrence of certain prerequisite conditions and then preparation of a specific plan. Those circumstances were described in response to previous comments made by this same letter writer, whose previous letter stated that the City's existing General Plan "effectively precludes development" in the Urban Reserves (see pages 43 and 45 of the *First Amendment to the Environmental Impact Report* dated August 1998, and elsewhere). This current comment, that the adoption of the UGB has somehow accelerated development in the CVUR, is inaccurate, as was the previous comment. The UGB has had no impact on the timing of development with Urban Reserves.

COMMENT #4: 3. Cumulative Impacts. The additional cumulative impacts analysis in the RDEIR is deficient because it is limited to considering the cumulative impacts of pending General Plan Amendment applications. This artificial limitation excludes consideration of the project that is most likely to have cumulative impacts with the UGB - - the Coyote Valley Research Park. The proposed UGB intensifies the pressure for more dense urban development in San Jose by limiting the land available for new housing. [This is further exemplified by the City's 1999 General Plan Annual Review which included the addition of a new intensification corridor and sixteen applications for an increase in housing density, many of which have been tentatively approved by the City Council. The additional intensification corridor and all but four density increases were covered by negative declarations. Submitted under separate letter dated December 3, 1999 and incorporated herein by reference is Appendix I which includes (a) a document summarizing by District the requests for General Plan designation amendments in the 1999 San Jose General Plan Annual Review (this document is entitled "General Plan Environmental Review Status" (revised December 2, 1999); (b) City Council Meeting Synopses for November 8, November 15 and November 18, 1999; and (c) Staff Reports and other background documentation for the 1999 General Plan Annual Review, including both General Plan designation and text amendments (collectively identified in Appendix 1, as the "1999 General Plan Annual Review Materials").] That trend will be exacerbated by the Coyote Valley Research Park if 20,000 new jobs come on line in San Jose and workers must find housing either within the confines of the UGB or in leap frog communities beyond the green belt. The potential cumulative impact of the Coyote Valley Research Park is especially acute because of the magnitude of the project and the fact that it is located very close to the proposed UGB. The RDEIR should have considered the cumulative impacts of the proposed Coyote Valley Research Park (which was a matter of public record well before the preparation of the RDEIR) and other potential development in the Coyote Valley and Almaden Urban Reserves, and considered alternatives to mitigate or eliminate these impacts.

RESPONSE #4: This comment confuses General Plan amendments and development proposals and then states that the RDEIR ignored cumulative impacts from pending General Plan amendments. The "Coyote Valley Research Park" and the 20,000 "new" jobs are not new or proposed, and are already allowed by the existing General Plan as part of the 50,000 jobs assumed for North Coyote Valley since 1983. (See General Plan text amendment GP98-T-4,

adopted in 1998 to make even more explicit the limits on future job growth assumed for North Coyote Valley).

The other pending General Plan amendments referenced in this comment are explicitly listed in the RDEIR (Table 2 starting on page 38) and were evaluated under Cumulative Impacts. The proposals to increase allowable residential densities were, in most cases, proposed to implement the General Plan policies encouraging infill development included in San Jose's General Plan for almost 25 years and referred to many times in the EIR prepared for the proposed UGB. Infill development is not a result of the UGB and is not a new policy in San Jose.

COMMENT #5: 4. Previously Identified Deficiencies. We have previously written to you identifying other deficiencies in the FEIR in our DEIR comment letter to you of June 29, 1998, together with the attached expert reports of Mundie and Associates, Smith Engineering & Management, Professor John D. Landis and Professor Gerrit Knapp, and our First and Second Amendments to DEIR comment letter to the City Council dated October 16, 1998, with attached exhibits. These letters are submitted as Appendix 2A and Appendix 2B, respectively, under separate letter dated December 3, 1999 and are incorporated herein by reference. We placed particular emphasis on the failure of the DEIR to consider the environmental impacts of intensified infill development and leap frog development that are a likely consequence of the adoption of the proposed UGB. None of the concerns identified in our previous letter have been addressed in the RDEIR and it is deficient for that reason.

RESPONSE #5: The previously submitted letters contained a number of incorrect assumptions and made inaccurate statements about supposed deficiencies of the previously prepared EIR, which were rejected by the City for reasons which were clearly stated in the previously certified FEIR. Those alleged deficiencies were rejected by the Court. The RDEIR addresses the potential for impact from imposition of the UGB on lands outside the UGB, as directed by the Court. No further response to the previously submitted letters is necessary, for the reasons stated in the First and Second Amendments to the Environmental Impact Report (dated August 1998).

COMMENT #6: B. ANALYSIS

1. The RDEIR is Deficient Because It Falls To Consider Significant Environmental Impacts of the UGB Project on the Area Outside of the UGB and Within the Sphere of Influence of the City of San Jose.

Judge Nichols found that the FEIR, certified by the San Jose City Council on October 20, 1998, was not prepared in the manner required by the California Environmental Quality Act ("CEQA") [California Public Resources Code §21000 et seq.] because it failed to consider the impact of the UGB project on the existing environment outside of the proposed UGB and within the Sphere of Influence of the City of San Jose. A copy of Judge Nichols' decision is attached as Exhibit I and is incorporated herein by reference.

RESPONSE #6: The RDEIR addresses specifically, and in as great detail as is appropriate for a program level EIR on a General Plan Amendment, the anticipated impacts of adopting the UGB upon the existing physical conditions outside the UGB and within the Sphere of Influence of the City of San Jose.

COMMENT #7: The RDEIR attempts to remedy this defect but its methodology is flawed. The City uses the approach of looking at the impact of the UGB legislation on existing General Plan policies and land use designations rather than on *the existing physical environment*. Using this flawed approach (and only by using this flawed approach), the City is able to conclude that the UGB will have no significant environmental impact. In the City's words, the proposed UGB will not have significant impacts outside of the UGB because:

Approval of the UGB will not allow any amount or type of development outside the UGB that is not already specifically allowed by the existing General Plan land use designations and policies, and appropriate ordinances.

This approach is contrary to reported decisional law in California. *Environmental Planning & Information Council v. County of El Dorado*, 131 Cal.App.3d 350, 354 (1982); *Christward Ministry v. Superior Court*, 184 Cal App.3d 180, 190 (1986); and *Gentry v. City of Murrita*, 36 Cal.App.4th 1359 (1995); *see also* CEQA Guidelines § 15125(e). [Guidelines for Implementation of CEQA, tit. 14, Cal. Code Regs. § 15000 *et seq.*, referred to herein as the "CEQA Guidelines."] The Superior Court specifically rejected the use of this approach in the environmental impact report for the present project.

RESPONSE #8: This comment, which attributes language to "the City" but not to any particular quotation, does not accurately explain why the RDEIR concluded the UGB was found to not result in significant impacts. The RDEIR states that the UGB "will not itself cause any development" (page vi of the RDEIR), therefore it will not have any impact on the existing physical environment. In other words, the UGB will not only cause no *new* development, it does not propose, cause, enable, facilitate, encourage, or entitle *any development whatsoever*. All the UGB does do is impose certain additional procedural restrictions on any future proposal to allow urban development at locations where urban development is currently not allowed.

COMMENT #9: The practical problem with the City's approach is that it ignores the fact that the proposed UGB project may cause significant impacts on the existing environment outside of the UGB *even though it does not change existing land use designations in that area*. One obvious example is traffic related impacts. If the UGB encourages intense urban development in an area *within* the UGB but adjacent to the boundary, traffic related impacts can be anticipated in the nearby area *outside* of the UGB. The City is not excused from studying significant traffic related impacts on the land outside of the UGB simply because land use designations did not change in that area.

RESPONSE #9: This comment apparently overlooks the explanation of how the City's Land Use/Transportation Diagram is planned and managed, particularly the transportation diagram (page 183 of the City's adopted General Plan). The City has planned for a transportation system that reaches outside of the USA

(and outside the proposed UGB), but which is designed to accommodate the development planned for inside the USA (and inside the proposed UGB).

This comment chose to ignore the discussion of existing roadways outside the UGB (page 30 of the RDEIR), and the traffic impacts on those roadways outside the proposed UGB, including the likelihood of development of future transportation facilities outside the UGB (page 31 of the RDEIR). The RDEIR contains the following statement:

“This increased traffic and the planned roadway improvements would not be the result of adoption of the UGB, but will be cumulative impacts resulting from implementation of the City’s existing General Plan, with or without the UGB, combined with growth in other jurisdictions.”

It is not clear how the RDEIR could be more explicit about traffic impacts outside the UGB, both as to their cause and their result, than the language that is contained in the RDEIR.

COMMENT #10: This is precisely the situation that presently exists. The UGB promotes urban development in the Coyote Valley and Almaden Valley Urban Reserves, areas immediately adjacent to the urban boundary line created by the proposed UGB and specifically reserved to accommodate future growth. The proposed legislation does this in two related ways. First, the UGB by definition creates the boundary for urban development in San Jose. By drawing the UGB in such a way that it extends beyond the current USA (the present boundary of urban development in San Jose) to include the Coyote Valley and Almaden Valley Urban Reserves, those areas are designated for urban development. Second, by drawing the UGB tightly around the rest of the City, the UGB cuts off all other large areas of potential urban expansion, creating enormous pressure for immediate development of the Urban Reserves. The proposed Coyote Valley Research Park is an immediate example of the pressure for accelerated development in the Coyote Valley Urban Reserve (the UGB, although now set aside, was in effect at the time this project was first proposed.)

RESPONSE #10: This comment is incorrect on several points. The UGB does not “promote” or advance urban development in the Urban Reserves; it allows for future development in those areas under precisely the same restrictions, both procedural and substantive, that has been allowed by the existing General Plan since 1994.

The USA is not the “present boundary of urban development in San Jose”. As stated in the May 1998 DEIR, it is a near term growth boundary, defining where a city can provide urban services within a given time frame [page 5 of the DEIR]. The UGB is a long term urban limit time, which is why the Urban Reserves are included within it.

The UGB does not cut off “all other large areas of potential urban expansion”. Areas of substantial urban expansion as envisioned by the General Plan are contained within the UGB, consistent with the existing physical constraints and existing General Plan policies.

Finally, the Coyote Valley Research Park is absolutely *not* an example of “the pressure for accelerated development in the Coyote Valley Urban Reserve”, because the Coyote Valley Research Park is not in the CVUR, it is in North Coyote Valley, inside the existing USA, and planned for urban development, as it has been for over 15 years.

COMMENT #11: Both the FEIR and the RDEIR failed to consider traffic or other impacts of urban development in the cross-hatched portion of Coyote between the existing, USA and the proposed new UGB. The impacts were not studied in the FEIR because the authors relied on a prediction by the City Planning Department that development would not occur in that area within the planning horizon of the 2020 General Plan. Whether or not that prediction was well founded in 1998, it is clearly no longer valid. On June 17, 1999, an application for a Planned Development Rezoning of 688 acres to allow 6.6 million square feet of campus industrial and research and development space was filed with the City for the Coyote Valley Research Park (File No. PDCSH 99-06053). A Notice of Preparation of--a Draft EIR for the Rezoning was issued by the City on September 8, 1999. Copies of the application, the Notice of Preparation and other materials in the project file (collectively the "Coyote Valley Research Park Application") are attached as Exhibit 2 and incorporated herein by reference. The possibility and indeed likelihood of immediate, intense urban development in the Coyote Valley Urban Reserve permitted by the configuration of the UGB was thus known at the time that the RDEIR was scoped and prepared. The RDEIR should thus have considered the possible significant environmental impacts of this development on adjacent areas outside of the UGB in order to comply with Judge Nichols' decision.

RESPONSE #11: This comment and the assumption upon which it is based are erroneous.

The RDEIR does address impacts to the transportation system in the “cross hatched portion of Coyote”. The area cross hatched on Figure 2 in the RDEIR is the CVUR, which is inside the UGB. The previously prepared EIR evaluated impacts to the transportation system inside the UGB, and the Court found that analysis sufficient.

There is no known pending proposal to develop in the CVUR at this time. The Coyote Valley Research Park, which is referenced in this comment, is inside the USA, inside the UGB, and not inside the CVUR. North Coyote Valley has never been inside the CVUR. North Coyote Valley is planned and zoned for urban development, has been the subject of previous EIRs that address urban development in the area, and its development has been planned for in the City’s General Plan through two major General Plan revision processes.

The RDEIR does address traffic impacts on the transportation system outside the UGB, including traffic impacts from planned development in North Coyote Valley. In fact, on page 31, the RDEIR refers to the General Plan eventually resulting in “more jobs in the southerly part of the USA, including Evergreen, Coyote, and Edenvale” as a desirable modification to prevailing traffic patterns. Traffic improvements outside the UGB but associated with the planned North Coyote Valley Campus Industrial Area are also called out specifically on page 31.

COMMENT #12: The failure of the RDEIR to consider potentially significant traffic related impacts is documented and discussed in the expert report of Smith Engineering and Management dated December 2, 1999 (the "Smith Report"). A copy of the Smith Report is attached hereto as Exhibit 3 and incorporated herein by reference. As the Smith Report points out, the RDEIR falls to include traffic counts or Level of Service analysis on the roadways serving areas outside the UGB, and the conclusory characterization of traffic impacts in this area is not supported by any analysis. In addition, the City did not include, although it should and easily could have included, the roadways outside the UGB but within the City's sphere of influence in the *Tranplan Model*, thereby rendering the analysis inadequate. The Smith Report notes that with the amount of development proposed by the Coyote Valley Research Park, approximately 150,000 new daily vehicle trips will be added in the region. These are impacts that should be included in the analysis of the UGB impacts.

RESPONSE #12: The attached memo from Daniel Smith is responded to separately below. As stated in response to comments from the same letter writer on the previously prepared EIR, the City does not prepare intersection level of service analyses for amendments to its General Plan because such analysis would not be meaningful; the General Plan identifies an adequate overall transportation network to accommodate planned growth. A TRANPLAN model run was prepared for the General Plan which included the land use assumptions of the proposed UGB and is referenced on page 44 of the RDEIR.

This comment and Mr. Smith's letter are based on an erroneous assumption about the TRANPLAN model. The model *does* include roadways outside the UGB but within the City's Sphere of Influence. In fact, the TRANPLAN model includes traffic conditions (vehicle miles traveled, vehicle hours traveled and derived average speeds) on roadways throughout the County and even reports on impacts outside the City's Sphere of Influence, both inside and outside the County, where they can be calculated in a meaningful fashion.

Mr. Smith's memo notwithstanding, the urbanization of the North Coyote Valley Campus Industrial Area has been assumed in the City's General Plan and in the TRANPLAN model for over 15 years.

COMMENT #13: In addition to traffic impacts, the rapid urbanization of the Coyote Valley Urban Reserve resulting from its inclusion within the proposed UGB may have other significant impacts on the environment on the adjacent area outside of the UGB including significant impacts on wildlife, air quality and noise, and pressure for development of roads, schools, power plants, housing and supporting facilities.

RESPONSE #13: The impacts of including the CVUR within the UGB were analyzed in the previously prepared EIR, as reflected in the comments made by this same letter writer on that EIR. The Urban Reserves were called out specifically throughout that previously prepared EIR because the Urban Reserves are planned by the City for urbanization in the long term. For example, the May 1998 DEIR identifies special status species in the CVUR which may be impacted by future urbanization there (page 86). Particular attention should be directed to pages 141, 148, 150, 151, and 152 of the May 1998 DEIR,

where specific reference is made to public facilities or utilities necessary to serve eventual development in the Urban Reserves.

The impacts that would be anticipated to occur outside the UGB if development occurs as planned, within the UGB and including the Urban Reserves, are explicitly addressed in the RDEIR. The area outside the UGB and immediately adjacent to the CVUR is land designated as the "Coyote Greenbelt" and hillside lands to the west. Wildlife impacts to the Coyote Greenbelt are addressed on page 29 of the RDEIR; air quality impacts in Coyote are referenced on page 33 of the RDEIR; noise impacts in the Coyote Greenbelt are discussed on page 32 of the RDEIR. As stated on pages 35 and 36 of the RDEIR, the City does not plan to extend urban utilities nor does it plan for urban facilities outside the UGB.

COMMENT #14: 2. The RDEIR is Deficient Because it Failed to Consider Significant Environmental Impacts Likely to Result From the Inclusion of the Coyote Valley Urban Reserve Within the UGB.

The immediately preceding section focuses on the failure of the RDEIR under the impacts of potential development of the Coyote Valley and Almaden to consider Valley Urban Reserves on the *are outside* of the UGB. However, the RDEIR is further deficient because it falls to consider *any* of the impacts of this potential development *regardless of location*. The potential significant impacts of development in these areas have never been considered in an environmental impact report. They were not studied in the Final EIR (Revised) for the 2020 General Plan because the authors assumed that no development would occur in the Coyote Valley Urban Reserve within the planning horizon of the 2020 General Plan. (Final EIR (Revised) for 2020 General Plan, page 57.) As discussed above, a similar assumption was made by the authors of the FEIR for the UGB. But this assumption, if ever valid, was no longer sustainable by the time that the RDEIR was prepared and the authors were well aware of this fact. The language at page 10 of the Initial Study of October 1999 (Appendix A to the RDEIR) discussing the Urban Reserves essentially tracks similar language in the prior FEIR with one notable exception, it no longer states that "The Coyote Valley Urban Reserve is not predicted to develop prior to 2020." However, the RDEIR (bottom of page 10) also includes the statement that "[m]ost of the land outside the City's existing USA does not have urban services and there are no plans to extend urban services to those areas," even though clearly urban services will be brought to the Coyote Valley Research Park. This statement appears to be a carry over of the City's position in the FEIR for the UGB that development within the Coyote Valley Urban Reserve would not occur within the time frame of the 2020 General Plan.

RESPONSE #14: The City's position regarding development within the CVUR has not changed. The previously prepared EIR does explicitly address development inside the CVUR, despite this letter writer's previously expressed opinion that it was inappropriate to do so because the CVUR would never develop (refer to pages 43 and 52 of the *First Amendment to the Environmental Impact Report*, August 1998). Since the CVUR is included within the proposed UGB, the EIR assumed that it would eventually develop with urban uses. The assumptions regarding when such development would occur have not, however, changed. This comment relates to the previously stated

mistaken assumption that the Coyote Valley Research Park was or is proposed inside the CVUR.

COMMENT #15: An environmental impact report ("EIR") must identify and assess both the direct and indirect significant environmental effects of a proposed project, examining both short and long term impacts. CEQA Guidelines § 15126.2(a). In addition to other required elements of an adequate EIR, the analysis must include the growth inducing impacts of the project, which, under the CEQA Guidelines (§ 15126.2(d), calls for the following:

Discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth ... Also discuss the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment.

RESPONSE #15: The Growth Inducing Impacts section of the previously prepared EIR (page 176 of the May 1998 DEIR) accurately identifies the direct "growth" impacts which the City of San Jose believes will be caused by adoption of the UGB. The DEIR concluded that the UGB will not cause or facilitate any direct growth, and the City declined to speculate beyond the discussion of secondary impacts beginning on page 153 of the DEIR as to what growth might be indirectly induced.

There are no circumstances known to the City of San Jose or reflected in this comment letter that change the conclusions in the previously prepared EIR.

COMMENT #16: The proposed UGB has just such growth inducing impacts in the Coyote Valley Urban Reserve and elsewhere. The proposed UGB extends beyond the present limit for urban development in San Jose (the USA) in both the Coyote Valley Urban Reserve and the Almaden Valley Urban Reserve. The areas where the UGB extends the limit for urban development beyond the current USA are shown as the crosshatched areas on Figure 2 to the RDEIR. The potential growth inducing impacts of this policy are discussed in the accompanying report of Mundie & Associates, dated November 24, 1999 (the "Mundie Report"). A copy of the Mundie Report is attached hereto as Exhibit 4 and incorporated herein by reference.

RESPONSE #16: The memo from Mundie & Associates (author unknown) is responded to separately below. That memo also states that the proposed rezoning by Cisco Systems is within the CVUR. That statement is incorrect, as are the deductions/arguments based on that assumption.

COMMENT #17: As noted in the Mundie Report, City documents indicate that if the UGB is drawn to include the Coyote Valley Urban Reserve, as many as 50,000 new jobs and 25,000 new housing units are likely to be built in the area. The Mundie Report opines that this level of development will generate traffic with associated impacts on air quality, as well as demand for public facilities and services. The potential traffic impacts are discussed in greater detail in the Smith Report. Traffic and the other impacts identified by the Mundie Report should be studied in an

EIR so that decision makers and members of the public can be fully informed before drawing the UGB to incorporate the Coyote Valley Urban Reserve.

RESPONSE #17: This comment appears to be stating that the UGB did not previously include the CVUR. In fact, the project description in the previously prepared EIR states quite clearly that the CVUR is included in the UGB (page 5 of the DEIR) and the CVUR is clearly shown in Figure 2 (page 3 of the DEIR).

The 50,000 jobs which this comment appears to be attributing to the CVUR are actually planned for the North Coyote Valley *Campus Industrial* area, which is inside the USA and has been for over 15 years. The 1,440 acres of vacant land planned for *Campus Industrial* development has been assumed to develop at approximately 40 employees per acre since EIRs prepared on the urban development of the area were certified in 1983. The 20,000 to 25,000 new dwelling units in the CVUR are referred to repeatedly in the previously prepared EIR on the UGB, which explicitly addresses the development in the CVUR (DEIR pages 19 and 156, for example). The development in North Coyote Valley is part of the approved General Plan which is evaluated in the cumulative impacts assumed in the previously prepared EIR. The residential development in the CVUR is explicitly analyzed throughout the same document and not assumed to occur prior to 2020 in the EIR analysis. There is no known reason for changing that assumption at this time.

COMMENT #18: The Mundie Report observes that the proposed configuration of the UGB to include the Coyote Valley Urban Reserve creates an extension of the current urban area of San Jose that extends much farther south along Highway 101 toward Morgan Hill than the current urban limit line. Mundie opines that development in this area will generate precisely the impacts that the City has purported to try to avoid by adopting a UGB: growth in locations that are distant from the central city with resulting demand for extension of infrastructure, construction of new public facilities and long travel distances for police and other mobile public service personnel. These potential impacts too should be studied in the EIR before action is taken on the proposal.

RESPONSE #18: The RDEIR to which this letter is responding does not change any of the assumptions about including the CVUR within the UGB; the CVUR was included in the UGB from the outset and it is analyzed in the previously prepared EIR as being within the UGB, which portion of the environmental analysis was found adequate by the Court.

The CVUR has been shown as an urban reserve in the City's adopted General Plan since 1984. While the adoption of the UGB does not change the growth parameters or revise the triggers for future development in any way whatsoever, it would be inappropriate if the CVUR were left outside the UGB, since the UGB is proposed to identify the City's long-term urban development boundary, and the CVUR is planned for urban development in the long term.

COMMENT #19: The Mundie Report also notes industrial development in the Coyote Valley Urban Reserve is likely to generate housing demand beyond the level that can be met by additional

housing in the immediate area. Mundie opines that the additional housing units required to accommodate Coyote Valley workers would either be located elsewhere within the UGB, thereby creating additional urban intensification, or would result in leap frog development with associated impacts. These potential, significant environmental impacts should be studied so that decision makers and members of the public are fully informed before deciding upon the UGB proposal.

RESPONSE #19: The City of San Jose is not proposing to place industrial development in the CVUR. This comment reflects, once again, an erroneous assumption and misunderstanding as to where the North Coyote Valley Campus Industrial Area is located.

COMMENT #20: Finally, the Mundie Report points out that the potential development of the Coyote Valley Urban Reserve undermines all of the assumptions in the 2020 General Plan, the 2020 General Plan FEIR and the FEIR for the UGB concerning job growth, population growth and housing demand in San Jose during the planning horizon. Mundie concludes that the additional demand for housing and public services resulting from potential development of the Coyote Valley Urban Reserve has not been considered in prior environmental impact reports and requires analysis in the RDEIR.

RESPONSE #20: Both this comment and the attached memo from Mundie & Associates imply that the "FEIR for the UGB" did not address the inclusion of the CVUR in the UGB, and reflect the erroneous assumption that circumstances relative to the CVUR have changed since the 2020 General Plan, its FEIR and the previously prepared EIR on the UGB were written. The facts are that all of these documents assumed that the *Campus Industrial* development in North Coyote Valley would occur, and their analyses reflect the anticipated benefits of the "reverse commute" associated with that development, as stated on page 75 of the City's adopted General Plan.

The previously prepared EIR for the UGB did assume that both the North Coyote Valley Campus Industrial Area (which has been designated and zoned for urban development since 1983) and the CVUR are within the UGB.

COMMENT #21: The time to perform this environmental analysis is *now*, not when specific projects come along for approval, such as the Coyote Valley Research Park. The decision makers are faced *now* with the policy choice of whether or not to extend the UGB limit line beyond the current USA to incorporate the Urban Reserves within the urban limits of the City. Full environmental analysis of the consequences of that choice should be available now, before they are required to decide. The law in California is clear. When a policy level decision, like the adoption of the UGB, has growth inducing impacts, environmental review should be performed *before the* decision makers adopt the policy -- not afterwards when specific projects come along. *Stanislaus Audubon Society, Inc. v. County of Stanislaus*, (1955) 22 Cal.App.4th 144, 157.

RESPONSE #21: The previously prepared EIR, on which this same letter writer commented several times, evaluated a UGB within which the North Coyote Valley Campus Industrial Area and the CVUR were included. There is no change proposed to the UGB from what was included in the previously prepared EIR of which the RDEIR is a part.

Furthermore, the urbanization of lands now called Coyote Valley Research Park in North Coyote Valley (*not* in the CVUR) have been addressed in several EIRs, including EIRs prepared (1) for the amendment to the City's General Plan when the property was first designated for urban uses and (2) when the properties in North Coyote Valley were zoned for urban development, and in the citywide EIRs prepared for the major General Plan updates which have occurred since the area was designated for *Campus Industrial* development.

COMMENT #22: The City is not excused from performing important environmental analysis simply because the document now being circulated for comment is a Recirculated Draft EIR. Significant new information that comes to light at any time prior to certification of the EIR must be considered. *Laurel Heights Improvement Ass'n v. Regents of the Univ. of Calif.*, 6 Cal. 4th 1112, 1132-33 (1993); *see also* Pub. Res. Code § 21092.1. *The Laurel Heights* court determined that new information is significant when it changes the EIR "in a way that deprives the public of a meaningful opportunity to comment upon a *substantial* adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect," in contrast to information that clarifies, amplifies or makes insignificant modifications to an EIR. *Id.* at page 11291130 (emphasis in original). When an important underlying assumption of the DEIR changes before certification, the DEIR must be updated to address the changed assumptions. *City of San Jose v. Great Oaks Water Company* 192 Cal.App.3d 1005, 1014-1016 (1987).

RESPONSE #22: There has been no "significant new information" that indicates that the previously prepared EIR was inadequate or failed to identify significant impacts associated with the adoption of the UGB. This comment refers back to the previous incorrect assertion that the Coyote Valley Research Park project is in the CVUR.

COMMENT #23: The City relies on CEQA Guidelines § 15088.5(f)(2) for recirculation of only those portions of the EIR that it contends were necessary to revise in order to address the deficiencies that the Superior Court found existed in the FEIR. In this case, the entire Draft EIR for the UGB should have been revised and a new Draft EIR circulated for public review and comment. It is impossible to revise selected portions of the FEIR when the underlying assumptions for the environmental analyses are wrong. Moreover, the City's purported analysis of the impacts of the UGB on the existing environment outside of the UGB and within the City's sphere of influence is conclusory and does not provide a meaningful assessment of impacts upon which a decision maker could rely in determining whether to adopt the UGB. The Initial Study prepared to determine whether, and to what extent, the FEIR remains adequate for the UGB concludes that the FEIR "addressed all of the impacts which might presently be anticipated to occur as a result of the adoption of the urban growth boundary." (page 29). It also concludes that the impacts identified and discussed in the FEIR have not substantively changed. But this simply is not the case, as major new development, with associated impacts, is now proposed outside the existing USA and within the boundaries of the proposed UGB. This major new development must be addressed in the EIR. [The City apparently has determined that the original Draft EIR, as revised by the RDEIR, is adequate for use in connection with re-adoption of the UGB. This is analogous to a decision to use an EIR prepared for an earlier project for a later project where circumstances have not changed (CEQA Guidelines § 15153), or where a lead agency determines that a Subsequent or Supplemental EIR is required because substantial changes in the circumstances under which the project will be

undertaken have occurred, new information of substantial importance shows that the project will have significant impacts not discussed in the previous EIR, or the significant impacts previously examined will be substantially more severe (CEQA Guidelines § 15162, 16163).] For all of these reasons, we urge the City to fully address the environmental concerns regarding the inclusion of the Urban Reserves within the UGB if prior to certification of the EIR.

RESPONSE #23: This entire comment, like the rest of the letter, is based on the explicitly stated belief that “major new development, with associated impacts, is now proposed outside the existing USA and within the boundaries of the proposed UGB”, which is completely incorrect. The development in North Coyote Valley is referred to several times in the previously prepared EIR, because the development has been planned for many years, and actually has most of its land use entitlements. The current rezoning proposal, as stated previously in an earlier response, is to change some of the development and infrastructure design, but will not result in more employment than has been specifically allowed by the General Plan for over 15 years.

Specific references to the land planned for *Campus Industrial* development in North Coyote Valley can be found in the previously circulated (May 1998) DEIR on the UGB, including pages 24, 27, 28, 59, and 81. Specific references to the same development can also be found in the August 1998 First Amendment to the Environmental Impact Report on page 99 (this reference is actually contained in a comment letter from this same letter writer) and page 100 (where the City responded that development permits had already been issued in North Coyote Valley).

COMMENT #24: The RDEIR is Deficient Because it Failed to Include Potential Urban Development of the Urban Reserves in its Cumulative Impacts Analysis.

An EIR for a project must discuss "cumulative impacts" of a project when they are significant. CEQA Guidelines § 15130 (a). A discussion of cumulative impacts must include either a list of past, present and probable future projects producing related or cumulative impacts or a summary of projections from an adopted general plan or related planning document (or in a prior environmental document which has been adopted or certified which described or evaluated regional or area wide conditions contributing to the cumulative impact). CEQA Guidelines § 15130 (b)(1). If a list approach is used, "probable future projects" may be limited to projects for which applications have been received at the time of the notice of preparation. In this case, we have been advised by the City that a notice of preparation of the RDEIR was not issued; however, the requisite time frame for including projects within the cumulative analysis should be projects for which applications have been submitted prior to commencement of the environmental analysis (see CEQA Guidelines § 15126.2(a)).

RESPONSE #24: The RDEIR, like the EIR it supplements, is a program-level document which addresses the development allowed by the City and County General Plans. The cumulative impacts analysis in the RDEIR addresses the potentially significant cumulative impacts of the proposed UGB considered in combination with all of the other development allowed by the City's adopted

General Plan, *and* the development which would be allowed if all of the pending General Plan Amendments were approved.

This includes the *Campus Industrial* development which is allowed by the existing General Plan and existing zoning inside the existing USA in North Coyote Valley. In accordance with CEQA, the City adequately addressed cumulative impacts in the RDEIR.

COMMENT #25: The notice attached to the RDEIR indicating the issuance of the RDEIR and informing interested parties of the date by which comments are due is dated October 22, 1999. The Coyote Valley Research Park Application was filed prior to this date and is under consideration by the City. In addition, a related General Plan Amendment to change Urban Design policies related to the height limits (to allow for building heights up to 120 feet) was filed and has been tentatively approved by the City Council (File No. GP99-T-3) on November 18, 1999., and a negative declaration for the General Plan Amendment adopted by the City (*see Appendix 1*).

RESPONSE #25: As stated previously, neither the rezoning application nor the request to increase building height in North Coyote Valley will allow any greater amount of employment than is already allowed by the City's adopted General Plan.

COMMENT #26: The Mundie Report opines that the failure to consider this project in the Cumulative Impacts section of the RDEIR was "... a huge omission in view of the scale of the Coyote Valley Research Park and the types of environmental impacts the General Plan itself anticipates in Coyote Valley." (Mundie Report, page 4.) The City offers no explanation, nor can there be a meritorious explanation, for not examining the cumulative impacts of this project in the RDEIR.

The potential cumulative impacts of the proposed UGB project and the proposed Coyote Valley Research Park are obvious. "Cumulative impacts" are "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." CEQA Guidelines § 15355; *see also* Pub. Res. Code § 21083(b). The City has already recognized in the FEIR that the UGB may accelerate the pace of urban infill in San Jose. The Coyote Valley Research Park project is likely to have a similar, compounding effect, adding approximately 20,000 new jobs to the San Jose metropolitan area and increasing demand for housing within the tightly drawn limits of the proposed UGB.

Just such impacts have been recognized by the courts as being potential impacts of guidelines or policies which have the effect of restricting development. In *City of Livermore v. Local Agency Formation Com.*, 84 Cal. App. 3d 531 (1986), the Alameda LAFCO revised its sphere of influence guidelines to provide that future incorporation of urban development outside an existing sphere of influence would be subject to county, rather than city, jurisdiction. *Id.* at 541. Recognizing that the guideline revision could result in significant environmental impacts, the court overturned the negative declaration adopted by LAFCO, based primarily on a report by a planning consultant that the shift to county jurisdiction would lower the threshold for urbanization in unincorporated areas. *Id.* at 541-42. Creation of the UGB represents a similar and significant shift in land use policy that not only will "lower the threshold" for and induce, intensify and accelerate development within the

UGB, *but already has had that effect*. The RDEIR fails to analyze in any meaningful way the environmental impacts associated with this accelerated development.

Like the court inferred in *San Franciscans for Reasonable Growth v. City and County of San Francisco*, 151 Cal. App. 3d 61, 74 (1984), that the only reason for the San Francisco Planning Commission's failure to consider and analyze, in connection with an EIR for a downtown office high rise, three other similar project then under review by the City, was that "it was more expedient to ignore them," this is the only reason we can attribute to the City's failure to include an analysis of the Coyote Valley Research Park in the cumulative impact analysis for the UGB. The City was aware of the Coyote Valley Research Park Application well before preparation of the RDEIR and welcomed the project as a major contribution to the City (see June 24, 1999 letter from James Derryberry to David Taran, included in Appendix 1) indicating the importance of the project to the City and the recommendation that it should receive special handling treatment). The RDEIR should include this project as part of the cumulative impact analysis.

RESPONSE #26: This comment is incorrect on several bases. First, there is no "new" project which the EIR fails to recognize. The proposed Coyote Valley Research Park project in North Coyote Valley is rezoning a piece of property already zoned for urban development, inside the USA, and *already* assumed as part of the cumulative impacts analysis explicitly included in the DEIR, the previously prepared FEIR, and the RDEIR for the UGB.

Second, the City of San Jose has not "recognized" that the UGB may "accelerate the pace of urban infill in San Jose". The previously prepared EIR states that "continuing present policies to limit urban growth *outside* the UGB will increase the pressure for urban growth *inside* the UGB". The City has acknowledged that, to the extent that the UGB can be identified as reinforcing present policies, it will contribute to that trend.

It is not clear what new development, if any, other than the Coyote Valley Research Park, is being referenced here. It is incorrect to state that the adoption of the UGB has caused the rezoning of land in North Coyote Valley, since the zoning change is proposed for the purpose of implementing different flood control improvements and design modifications already incorporated into the General Plan on land that is already approved for industrial development.

Finally, the City did not ignore the cumulative impacts of development in North Coyote Valley. Like all other development allowed and assumed within the City's existing USA, the development of North Coyote Valley is part of the cumulative impacts referred to throughout the RDEIR. It is even referred to specifically on page 31, in the context of associated traffic improvements that would be built outside the UGB.

COMMENT #27: The RDEIR is Deficient Because it Incorporates the FEIR, Which Itself is Deficient for Reasons Previously Brought to Your Attention.

In our previous letters to you and the City Council on the EIR prepared for the UGB (Appendix 2A and Appendix 2B), we pointed out, in addition to other items, the following inadequacies of the DEIR, which still apply as the RDEIR did not correct these deficiencies:

- a. The EIR falls to accurately describe the project that is the subject of environmental review because it does not acknowledge that the UGB creates a permanent prohibition rather than merely maintaining the status quo and, therefore, having no effect on the environment.

RESPONSE #27: The Superior Court decision directed that certain changes be made to the FEIR in order for it to fully comply with CEQA. None of the points made in this comment (or in the attached binders which contain previous letters from this law firm) were found by the Court to require revision, other than the more explicit analysis of impacts outside the proposed UGB and inside the City's Sphere of Influence.

The UGB does not create a "permanent prohibition" of anything. As the City pointed out in response to previous comments from this letter writer, the UGB creates a process for changing the long term limit for urbanization that includes an assessment of the environmental and policy implications of making such a decision. It does not, however, preclude future decision makers from making such changes.

COMMENT #28: b. The EIR unlawfully limits its analysis to the Year 2010 instead of 2020 and it fails to adequately analyze the environmental impacts of the UGB because (i) the direct impacts analyzed are those resulting from buildout of the General Plan rather than the UGB; (ii) the project housing demand information upon which the City draws the conclusion that no housing shortage will exist in San Jose through the horizon of the General Plan is inaccurate and misleading-, (iii) the City already has increased urban density at levels that exceed those planned for in the General Plan; (iv) the City concludes that the housing stock is more than adequate to meet the demand generated by the number of Jobs in the City through buildout of the General Plan; and (v) although correctly acknowledging that the UGB may accelerate densification, the EIR falls to examine the foreseeable impacts.

RESPONSE #28: There is no law requiring San Jose to evaluate a particular horizon year for the UGB. The year 2020 appears in the title of the City's General Plan, and some of the projections about future conditions refer to 2020. On page 28 of the City's adopted General Plan, the following statement describes the *San Jose 2020 General Plan* update process:

"All of the alternatives assume that maximum job and housing growth will occur sometime between the years 2010 and 2020."

The insistence by this letter writer that the UGB EIR must analyze a 2020 horizon year is without foundation.

In addition: (i) The only direct impacts on the physical environment which were identified by the analysis in the EIR were the cumulative impacts of implementing the General Plan—no significant adverse environmental impacts

were identified as resulting from adoption of the UGB, other than those unsupported speculations contained in letters commenting on the previously prepared EIR.

(ii) The projected housing supply provided for in the City's General Plan represents estimates based on a combination of physical constraints, environmental carrying capacity, market demand, and infrastructure capacity—it is more than just a “housing demand” estimate. Although the City has provided sufficient opportunities for housing development, at no point, in either the previously prepared EIR or in the General Plan does the City state that “no housing shortage will exist in San Jose through the horizon of the General Plan”. That statement was apparently made by the letter writer.

(iii) It is unclear what the letter writer means by “urban densities that exceed those planned for in the General Plan”. There are no known developments that have been recently approved in San Jose that do not conform to the City's General Plan.

(iv) It is accurate to state that the supply of housing planned for within San Jose's Sphere of Influence includes more than enough dwelling units to house the employment planned for in San Jose's Sphere of Influence.

(v) This last statement is apparently referring to the Secondary Impacts section of the previously circulated May 1998 DEIR, which said that

“...the timeframe for planned infill development might be accelerated, as compared to the timeframe for the infill development without the UGB in place. In any case, issues of timing would not effect the environmental impacts of such development, which is the relevant question under CEQA.” [page 153 of the DEIR]

As stated in response to previously made comments by this same letter writer, the General Plan has a number of policies already in place that regulate the need for sufficient infrastructure, maintenance of levels of service, and adherence to environmental standards that would govern infill development whenever it occurs. The complete statement in the DEIR is still considered accurate.

COMMENT #29: c. The EIR falls to analyze the secondary impacts of the UGB.

d. The EIR falls to address the impacts of reasonably foreseeable leap frog development resulting from the UGB, including but not limited to secondary impacts, increased pressures for leap frog development due to reducing already limited housing capacity with adoption of the UGB, and whether the UGB is drawn too tightly.

e. The EIR includes an impermissibly high threshold of significance for evaluating land use impacts.

- f. The EIR falls to analyze the potential impact of the project on the location, distribution, density or growth of a population.
- g. The EIR analysis of growth inducing impacts is inadequate.
- h. The EIR incorrectly assumes that future adherence to traffic standards will prevent traffic impacts.
- i. The EIR contains significant flaws in the traffic analysis.
- j. The EIR falls to adequately analyze alternatives other than the no-project alternative. An EIR must analyze a reasonable range of project alternatives.
- k. The EIR falls to consider the impact of the UGB on affordable housing.
- l. The FEIR falls to adequately respond to comments on the Draft EIR.

All of the deficiencies identified in our previous correspondence on the FEIR (contained in Appendix 2A and Appendix 2B) remain.

RESPONSE #29: None of these comments relate to the RDEIR. The letter writer is referred to the previously made responses provided to the attached letters, which remain applicable.

COMMENT #30: C. CONCLUSION

The RDEIR falls to address the deficiencies identified by the court and the court's order by failing to adequately analyze the impacts of the UGB on the existing environment and outside the UGB and within the City's sphere of influence. This deficiency, coupled with the failure to address the planned Coyote Valley Research Park and other potential development in the Urban Reserves, render the RDEIR fatally flawed. In addition, the underlying Draft EIR that the RDEIR purports to revise is inadequate for all of the reasons stated in this letter and the City must correct the deficiencies before it can act to readopt the UGB. We respectfully request that the City revise the RDEIR to comply with CEQA and the court's directive, and recirculate the document.

RESPONSE #30: The RDEIR does identify existing conditions outside the proposed UGB and inside San Jose's Sphere of Influence, and it does assess the potential for environmental impacts, based upon imposition of the UGB. As has been stated numerous times in these responses, the planned Coyote Valley Research Park is not in the Urban Reserve, has never been in the Urban Reserve, and there is no currently planned urban development proposed within the Urban Reserves at this time.

Both of the following two letters were attached to the previously referenced letter from Sheppard, Mullin, Richter & Hampton as Exhibit 3 (letter from Smith Engineering) and Exhibit 4 (two memos from Mundie & Associates).

B. LETTER FROM SMITH ENGINEERING ASSOCIATES, DATED NOVEMBER 24, 1999 AND ADDRESSED TO THEODORE RUSSELL AT SHEPPARD, MULLIN, RICHTER & HAMPTON:

COMMENT #1: At the request of Sheppard, Mullin, Richter & Hampton LLP, I have reviewed the October, 1999 Recirculated Draft Environmental Impact Report (RDEIR) on the proposed City of San Jose Greenline/Urban Growth Boundary (UGB). My review focuses on transportation aspects of the document. I have previously submitted formal reviews of earlier editions of environmental documentation on the Greenline/UGB project. This letter documents the findings of my review on the current DEIR.

1. The RDEIR admits that there is a system of local roadways, major collector streets and major roadways serving lands outside the Greenline but inside the City's Sphere of Influence.

The first three Transportation sections (page 30 of the RDEIR) add text to page 105 of the previous EIR that was found inadequate by the Court. The initial section is entitled Roadways. The new text describes the roadways outside the Greenline only in a brief narrative. No specific mapping or quantification of mileage of roadways by functional type is provided. However, the new text does disclose that there is a network of roadways serving lands outside the Greenline including five major collectors, five other major roadways and a system of two-lane public streets and private roadways providing access to those lands and linking them to areas inside the Greenbelt.

RESPONSE #1: This comment does not raise any question requiring a response.

COMMENT #2: 2. The RDEIR characterization of traffic outside the Greenline but inside the Sphere of Influence is unsupported and speculative. The City has presented no evidence of having performed any formal analysis of traffic conditions in those areas.

The second RDEIR transportation section indicated as additive to page 105 of the previous inadequate EIR is entitled Traffic Conditions. This section purports to describe traffic conditions on the roadways serving areas outside the Greenline. However, no traffic count data or Level Of Service analysis is provided. The content is limited to a generalized, subjective characterization of traffic. This superficial characterization is an inadequate treatment of the critical issues under study in this RDEIR. The new document also fails to describe levels of traffic that the existing roadway system outside the Greenline could reasonably support. It is fair to say that the roadway system outside the Greenline could sustain traffic from a considerably higher level of development outside the Greenline than now exists without suffering the severe congestion that characterizes much of the transportation system inside the Greenline and that is a byproduct of almost any development inside the Greenline.

RESPONSE #2: The RDEIR, like the previously prepared EIR it supplements, is prepared for a General Plan amendment and adequately analyzes the project's impact on the planned transportation system. A level of service analysis is not appropriate to determine overall network impacts. This comment is focused

on what the letter writer seems to consider was the failure of the EIR to identify available capacity within the existing infrastructure for development that is not proposed. The purpose of an EIR is to address impacts from the project, as the RDEIR does adequately.

The References section of the RDEIR lists the traffic analysis done for this RDEIR, which is similar to that done for the previously prepared EIR. The discussion of existing conditions on roadways outside the UGB is of the same degree of specificity as that done for roadways inside the UGB.

COMMENT #3: 3. Although discussion of the City's Tranplan traffic model occupies 25 percent of the entire transportation section of the RDEIR, the Tranplan model was not actually used to analyze traffic conditions in the area outside the Greenline but inside the Sphere of Influence.

RESPONSE #3: This comment indicates that the letter writer did not read the traffic analysis report referenced on page 44 of the RDEIR, or the traffic analysis that was included in the previously circulated DEIR (Appendix D). The City's TRANPLAN model includes the entire transportation system within the City's Sphere of Influence. For example, as stated on page 35 of Appendix D in the May 1998 DEIR, and on page 32 of the updated October 1999 traffic analysis referenced in the RDEIR, the model reports on vehicle miles traveled for the entire Sphere of Influence, as well as for other parts of Santa Clara County.

COMMENT #4: The third RDEIR transportation section additive to page 105 of the previous EIR entitled Tranplan Model is a brief description of the City of San Jose's traffic forecasting analysis procedure. The text reveals that the Tranplan process did not perform any analysis of the roadway network outside the Greenline based on the incomprehensible rationalization that "the urban street network does not extend outside the existing USA or the proposed UGB". This is in obvious contradiction to the RDEIR's description of the roadway network in the section entitled Roadways discussed above and of the Court's direction to the City to adequately analyze the impacts of the Greenline/Urban Growth Boundary on the existing environment outside of the UGB and within the City's Sphere of Influence. The roadways outside the Greenline could readily have been encoded in the Tranplan model and identified in screen lines for an analysis comparable to what was presented in previous versions of this EIR for other areas of the City. It is obvious that the City does not intend to provide any meaningful analysis of traffic impacts of the Greenline/UGB on the roadway system outside the Greenbelt. It has done none.

RESPONSE #4: Because this comment quotes part of a sentence out of context, it reaches an erroneous conclusion regarding the analysis done by the TRANPLAN model. The complete sentence in the RDEIR reads as follows:

Because the urban street network does not extend outside the existing USA or the proposed UGB, there are no screenlines located outside the proposed UGB that are modeled in the Tranplan model, and no localized congestion is identified outside the UGB other than the conditions on individual roadways discussed previously.

Along a travel corridor having a number of parallel facilities, it is possible to draw a line perpendicular to the corridor's major direction of travel. The line is called a "screenline" and is used to forecast traffic demand and highway system capacity for all of the facilities that cross it. When demand is compared to capacity across the screenline, it becomes possible to identify a level of service for those combined facilities. Because there are significantly fewer roadways outside the UGB, there are no screenlines modeled there.

The RDEIR identifies the existing conditions on the roadways outside the proposed UGB and inside San Jose's Sphere of Influence in qualitative terms (page 30 of the RDEIR). A statement is added in Section III of this document, "Revisions to the Text of the Recirculated Draft EIR", that reflects the most recent *Annual Monitoring Report* of the CMP. That report identified one segment of U.S. 101 between the City of Morgan Hill and the proposed UGB that is operating at an unacceptable level of congestion (LOS F) in the morning peak hour. This confirms the text of the circulated RDEIR, which identifies U.S. 101 in south Coyote Valley as experiencing peak hour congestion associated with traffic traveling northward in the morning and southward in the evening to destinations within the urban area.

COMMENT #5: 4. The RDEIR's characterizations of traffic impacts of the Greenline/UGB project on the area outside the Greenline but inside the Sphere of Influence are conclusory, unsupported and speculative.

The fourth section of the RDEIR transportation element is a section additive to page 1 12 of the previous EIR entitled Impacts Outside the Proposed UGB. This conclusory section asserts that "adoption of the UGB will not create traffic impacts at any location".

This finding is not substantiated because the City has not conducted any traffic analysis capable of identifying impacts outside the Greenline. Our prior formally submitted comments on the previous incarnation of this EIR have convincingly documented that without the UGB there would inevitably be additional development in the areas outside its proposed limits. If the UGB is adopted, much of that development would be forced to infill locations where it would exacerbate existing and future severe traffic congestion conditions. The impacts of these changes in conditions have still not been analyzed.

RESPONSE #5: This entire comment addresses information in the previously circulated DEIR and the First Amendment to that DEIR. The opinion of the letter writer notwithstanding, it is the opinion of the City and County staff that there would **not** "inevitably be additional development in the areas outside" the proposed UGB. The comment also assumes that the City will approve infill development in conflict with its General Plan policies. Both of these circumstances would accurately be identified as "changes in conditions", but their occurrence is entirely speculative and the City declined to assume they would occur in the previously prepared EIR.

Since this comment does not address the adequacy of the RDEIR or the analysis in it, no further response is required.

COMMENT #6: 5. The entire RDEIR transportation analysis is inadequate and fatally flawed because the City is concurrently considering massive development in the Coyote Urban Reserve near the Greenline that would substantially affect traffic conditions in the area outside the Greenline but inside the Sphere of Influence. The effects of this development in the Coyote Urban Reserve was not analyzed in the RDEIR or in the previous environmental documentation on the Greenline/UGB project.

RESPONSE #6: This entire comment is incorrect. The City is **not** considering “massive” development (or any development) in the Coyote Valley Urban Reserve at this time, and no such development is presently proposed. This is apparently the same erroneous assumption reflected in the previous letter from Sheppard, Mullin (to which this letter was attached). Development proposed in the North Coyote Valley Campus Industrial Area was addressed in the previous EIR as well as the RDEIR.

COMMENT #7: The entire analysis is flawed because the City of San Jose is concurrently considering a major project outside the Urban Service Area (USA) that is not considered in the Tranplan Model transportation analysis used in this study, in the previous editions of the EIR on the Greenline/UGB or in the 2020 General Plan EIR analysis. This is the Coyote Valley Research Park in the Coyote Urban Reserve area (City of San Jose Department of City Planning, Building and Code Enforcement file number PDC-99-06-053). The proposed development would provide 6.6 million square feet of research and development space, the employment site for 20,000 workers, on a 688 acre site in the Urban Reserve. In addition, the Coyote Valley Research Park would provide the water, flood control and electric power infrastructure to serve development of an additional 756 acre area in the Coyote Urban Reserve.

In all of the analysis of the Greenline/UGB that the City has performed, it was presumed that the Coyote Urban Reserve would not be utilized for urban development until after year 2020. The 20,000 jobs in the Coyote Valley Research Park project that are unanticipated in the transportation analysis would cause the creation of an additional 14,900 households [At the typical current employed residents per household rate of 1.34 persons] in the region as the result of those jobs that are also unanticipated in the transportation analysis of this RDEIR or in the analysis of the General Plan itself. This development has not been taken into account in any of the traffic studies associated with the UGB. It is not even mentioned in the projects cited in Table 2, page 38 of the RDEIR that are reportedly the basis of the cumulative analysis and the Tranplan traffic forecast model runs that were used for the transportation analysis [In the Item 4 above, we highlighted the City's admission in the RDEIR that its Tranplan Model was really not used to actually analyze the conditions on the roadway system outside the UGB but inside the City's Sphere of Influence. The City ran the Tranplan Model for an other purpose (analysis of other General Plan amendments) and point to it as an analysis source in the RDEIR but admit that the City had structured it so it provided no meaningful analysis for roads outside the UGB. The point here is that even had the City attempted to extract meaningful analysis on the roads outside the UGB from the Tranplan runs they cite, those analyses would have been significantly flawed and inadequate because of the omission of the significant changes in the General Plan inherent in the Coyote Valley Research Park development.] .

This omission in the RDEIR analysis is inexplicable since the City certainly had considerable advance knowledge of the significant impending change in the structure of the General Plan (development of the Urban Reserve two decades prior to year 2020) in the immediate proximity of

the Greenline well before the RDEIR was circulated. The project application form for the Coyote Valley Research Park was filed with the City on 6-17-99. The City's Notice of Preparation of a Draft Environmental Impact Report on the Coyote Valley Research Park was filed on 9-8-99. The RDEIR on the Greenline/UGB was not circulated until 10-22-99. (The Court's order finding the previous EIR on the Greenline/UGB inadequate was not issued until 10-13-99 so there is no possibility that the RDEIR was already in an essentially complete state when the City became aware of the Coyote Valley Research Park project. The fact that the RDEIR was recirculated only nine days after the date of Court's record of decision is, however, in correspondence to the superficial content of the RDEIR.)

The change in the General Plan to allow large scale urban development in the Coyote Valley Urban Reserve prior to year 2020 would have significant transportation impacts by adding on the order of 150,000 new daily vehicle trips in the region, mostly in close proximity to the Greenline. This tripmaking, that was totally unanticipated in the transportation analysis for the environmental documentation for either the General Plan or the Greenline/UGB, could significantly alter the conclusions of the transportation analysis in this RDEIR, had it been taken into account. The location of the Coyote Valley Research Park project adjacent to the Greenline and directly tributary to major roads that traverse the Greenline such as U.S. 101, Monterey Road, Santa Teresa Boulevard, Bailey Avenue and McKean Road would certainly have substantial impact on traffic conditions in the area outside the Greenline but inside the Sphere of Influence. The failure to consider the effects of the Coyote Valley Research Park project in the RDEIR renders the document inadequate.

RESPONSE #7: This entire comment is incorrect. There is no development proposed in the CVUR. The Coyote Valley Research Park is located within the UGB and within the existing USA, is designated for *Campus Industrial* land uses, has been so designated for over 15 years, is zoned for development with industrial uses and has been so zoned for over 15 years, and is not proposing any increase in the employment numbers over what has been explicitly allowed by the City's adopted General Plan for over 15 years. As stated in the General Plan, buildout of the North Coyote Valley Campus Industrial Area will allow up to 50,000 employees.

The letter writer is referred to the responses to the letter from Sheppard, Mullin above, particularly responses #2,3,9,11, and 13, which specifically identify locations in the environmental documents where the North Coyote Valley development is addressed.

C. RESPONSE TO MEMO FROM MUNDIE & ASSOCIATES DATED NOVEMBER 24, 1999 AND ADDRESSED TO TED RUSSELL, SHEPPARD MULLIN RICHTER & HAMPTON:

COMMENT #1: We have reviewed the Recirculated Draft Environmental Impact Report (RDEIR) for the Greenline/Urban Growth Boundary, San Jose Sphere of Influence, submitted by the City of San Jose in response to the requirement imposed by the ruling of October 13.

The RDEIR appears to omit or improperly limit discussion of four related and critical issues:

1. Direct Impacts of the Proposed UGB on Development in Coyote Valley

Development of the Coyote Valley Urban Reserve (CVUR) is a concept that has been long discussed, and firmly rejected, by the City of San Jose in its past planning efforts. For example, the discussion of the CVUR in the San Jose 2020 General Plan, adopted in 1994, states (p. 152), "Future urban development is expected outside of the timeframe of this General Plan and can only be considered conceptually in this plan." The General Plan goes on to define certain prerequisite conditions (which have come to be known as "triggers") for development of the CVUR, and describes a vision of "a very urban, pedestrian-oriented and independent community characterized by high density housing, supportive businesses and land uses, and Campus Industrial land uses" that would accommodate 20,000, to 25,000 dwelling units and approximately 50,000 jobs.

The Final EIR (Revised) on the San Jose 2020 General Plan (July, 1994) reinforces the message that development of Coyote Valley would not be permitted within the time frame of the Plan. It states (p. 52), "The existing General Plan allows for the development of both the South Almaden Valley and Coyote Valley Urban Reserves. The General Plan update would only allow for the development of the South Almaden Valley Urban Reserve during the timeframe of the Plan." On p. 57, the FEIR states, "The update would allow for development of 2,000 [housing] units in the South Almaden Valley Urban Reserve, but would not allow for development in the Coyote Valley Urban Reserve during the timeframe of the Plan."

Like the General Plan and the General Plan EIR, the original EIR on the proposed UGB also states directly that the CVUR is not expected to be developed within the time horizon of the current General Plan, and therefore does not evaluate the potential environmental impacts of development there. (Various pages; see our appended memo of August, 1998, which discusses the treatment of the CVUR in the DEIR of May, 1998.)

In the alignment proposed, the UGB nevertheless leaves two locations for expansion of the City's established Urban Service Area (USA) within the limits of the UGB: the South Almaden Valley Urban Reserve (SAVUR) and the Coyote Valley Urban Reserve (CVUR). If the alignment of the UGB were consistent with the General Plan and the General Plan EIR, it would have been drawn to exclude the CVUR from the area available for development.

Notwithstanding the repeated assertions that CVUR will not be developed within the time frame of the current General Plan, the City has now accepted an application from Cisco Systems to rezone a portion of the Coyote Valley Urban Reserve to permit development of an industrial campus, intended to house 20,000 jobs, in the Coyote Valley Urban Reserve (File # PDC99-06-053, dated June 17, 1999), and the Initial Study for the RDEIR omits the language found in previous documents asserting that the CVUR will not be developed within the time frame of the San Jose 2020 General Plan. This change is a clear departure from the previous condition. It would be a direct result of the adoption of a UGB in the location currently drawn, because the UGB allows no locations other than the two Urban Reserves for future development of urban uses. By eliminating alternative sites for major new urban development, the UGB - if adopted - will therefore have a significant impact on the timing of new development within the CVUR, because it will focus all development pressure on the two urban reserves.

Beyond the acceptance of an application for development in the CVUR, the City has accepted an application for a General Plan Amendment that would increase the height limit in the CVUR from

90 feet to 120 feet (GP99-T-3) and has issued a Notice of Preparation of a Draft Environmental Impact Report (NOP) for the Proposed Coyote Valley Research Park Planned Development Rezoning (File # PDCSH 99-06-053). These two actions clearly indicate that the City will seriously consider the rezoning application, and that the proposed development cannot be dismissed as "speculative."

The impact of development in Coyote will not be limited to the addition of 20,000 jobs to the potential employment growth of San Jose; instead, it will be buildout of the Specific Plan that is ultimately adopted for that area. As noted above, the General Plan envisions a community of 50,000 jobs and 20,000 to 25,000 housing units. This level of development will generate traffic, with associated impacts on air quality, as well as demand for public facilities and services.

Because the CVUR extends south along U.S. 101 much farther than any of the surrounding area within the USA or the UGB, comprising a peninsula that extends southward toward Morgan Hill much farther than the developable area on either side, development of this area will generate precisely the impacts that the City has purported to try to avoid by adopting a UGB: growth in locations that are distant from the central city, with the resulting demand for extension of infrastructure, construction of new public facilities, and long travel distances for police and other mobile public service personnel.

Further, the amount of housing included in the General Plan vision for CVUR is unlikely to accommodate the number of jobs planned for the area. Table 1, below, derives an estimate of the number of jobs per household implied by ABAG's projections of jobs and households in San Jose between 2000 and 2020, and the number of housing units that would be required for 50,000 additional jobs (assuming a housing vacancy rate of five percent). The most conservative (lowest) assumption, in 2020 - that is, the year in which the average number of jobs per household would be greatest, and, therefore, the amount of housing needed would be smallest - more than 37,000 housing units would be needed to house the 50,000 workers envisioned in Coyote Valley. With a vision of only 20,000 to 25,000 housing units, the General Plan vision would result in a shortfall of 12,000 to 17,000 housing units.

The additional housing units required to accommodate Coyote Valley workers would either be located within the UGB or beyond the San Jose sphere of influence. If they are within the UGB, the housing capacity of the area within the USA would have to be further intensified to allow for the development of 12,000 to 17,000 more units than are currently anticipated, with resulting impacts on traffic congestion, air quality, and public facilities and services. If they are beyond the sphere of influence, then they will create the impacts associated with spillover and leapfrog development that we have identified in previous memos, including conversion of open space and agricultural land to urban uses, regional traffic congestion, and associated air quality impacts.

RESPONSE #1: This entire comment revolves around and is predicated upon an incorrect assumption: as stated in the overview of comments at the beginning of this section, and in response to the two previous letters, the Cisco Systems project (Coyote Valley Research Park) is not proposed in the CVUR. The Notice of Preparation circulated by the City of San Jose, which was attached to the Sheppard, Mullin letter (letter A above), included a map that showed the location of the proposed rezoning in North Coyote Valley, inside the USA,

inside the UGB, inside the City limits, on land designated and zoned for urban development.

It is not clear upon what basis this comment assumed that 50,000 jobs were included in the CVUR. The 50,000 jobs are assumed by the City's adopted General Plan as being in North Coyote Valley, not in the CVUR. North Coyote Valley is north of the CVUR, and has never been included in the Urban Reserve. Nowhere in the adopted General Plan or in its FEIR is there any indication that part of the CVUR is designated for industrial uses or includes 50,000 jobs. In 1998, a specific text amendment was approved to specify the 50,000 jobs in North Coyote Valley (GP98-T-4); prior to that year, the adopted General Plan (on page 170) identified an employment density of 40 employees per acre as assumed on lands designated for *Campus Industrial* use in North Coyote Valley.

The potential for 20,000 to 25,000 housing units in the CVUR was discussed in several places in the previously circulated EIR (see pages 19, 29, and 156 of the May 1998 DEIR).

The employment assumed in North Coyote Valley has been part of the mix of jobs and housing evaluated in every General Plan Annual Review and major update since 1983, and was part of the background condition identified in the cumulative conditions analysis discussed in the May 1998 DEIR and the recently circulated (October 1999) RDEIR.

The North Coyote Valley Campus Industrial development is not a new change in the City's General Plan. The inclusion of the CVUR in the UGB is not a new proposal, it was also assumed in the previously circulated EIR. These comments about its inclusion in the UGB are, therefore, not relevant to the RDEIR and no further response is required. In addition, there is no new information related to when the CVUR may eventually develop beyond what is already assumed in the General Plan and in the RDEIR.

COMMENT #2: 2. Change in the Underlying Growth Projection

The underlying growth projection discussed on pp. 10-11 of the Initial Study (appended to the RDEIR) is inappropriate because (a) a subsequent growth projection, extending through the year 2020 (the horizon year of the General Plan), is available and should be used, and (b) consideration of the Cisco business park application and/or a Specific Plan for development of Coyote Valley which, as noted above, was dismissed from the realm of the possible in previous planning documents - will change the underlying projection further by expanding the City's employment capacity.

a. Projections through 2020. Like the May, 1998 DEIR, the Initial Study for the RDEIR reviews the projections of population growth published by the Association of Bay Area Governments (ABAG; Projections 98) and concludes that the General Plan has ample development capacity to accommodate all projected growth. Specifically, the RDEIR (on pp. 10-11) compares ABAG's projection of 34,480 new households between 2000 and 2010 to the Plan's potential to accommodate 38,400 new dwelling units. This comparison is flawed because:

It fails to allow a housing vacancy rate. Conventionally, a five percent vacancy allowance is thought to be necessary to assure smooth operation of the housing market. allowing five percent vacancies for only the 34,480 new households would require 1,815 unoccupied housing units, for a total of 36,295 total new units between 2000 and 2010. To achieve this level of buildout, all but 2,105 (five percent) of the possible additional units would have to be built by the end of that period.

It does not consider housing demand through 2020, which is the time horizon of the General Plan. The ABAG projection anticipates 34,480 new households (requiring 36,295 new housing units, assuming a five percent vacancy rate) between 2000 and 2010, and another 17,690 households (requiring 18,620 housing units) between 2010 and 2020. With capacity for 38,400 housing units, the General Plan falls short of the demand projected by ABAG by more than 16,500 housing units. This shortfall does not consider demand that would result from the implementation of the Cisco project in Coyote Valley.

Projections through the year 2020, provided by ABAG's Projections 98, were not available at the time the General Plan was adopted, but they have been available since the beginning of 1998. Notwithstanding the availability of these projections, the RDEIR continues the City's practice of using projections that extend only through 2010. The RDEIR should instead refer to the year 2020 projections, which are coterminous with the horizon year of the General Plan, to evaluate the adequacy of the City's ability to accommodate housing demand for the full term of its Plan.

RESPONSE #2: As stated previously in response to similar comments from this same firm received on the previously prepared EIR, the City's adopted General Plan does **not** assume that full buildout will occur by the year 2020. On page 28 of the City's adopted General Plan, the following statement describes the *San Jose 2020 General Plan* update process:

“All of the alternatives assume that maximum job and housing growth will occur sometime between the years 2010 and 2020.”

Responses to previous comments from this same firm received on the previously prepared EIR also addressed the applicability of the ABAG projections and their relevance to the City's General Plan process. Since the second part of this comment (that 50,000 jobs are being added to the USA) is incorrect, there are no new significant changes in the assumed holding capacity, employment base, or residential development potential allowed by the City's General Plan that would warrant additional changes to the previously prepared EIR. This comment argues that the Cisco Systems proposed rezoning has changed basic General Plan assumptions. As stated throughout previous responses to comments, this is erroneous. Therefore, no further response to this comment is required.

COMMENT #3: b. Change in the Amount of Employment Growth Accommodated by the Plan. The application for the Cisco business park in the CVUR, which would ultimately accommodate 20,000 jobs, not only would have direct environmental impacts in the Coyote Valley area, but would also change the underlying employment growth projection for the General Plan.

RESPONSE #3: As stated in response to similar comments in the two previous letters, The proposed Cisco Systems rezoning does not change any of the assumptions in the General Plan. The 20,000 jobs anticipated on that 688 acre site were assumed to be part of the 50,000 jobs long planned for North Coyote Valley and assumed to contribute to the benefits of the reverse commute discussed on page 75 of the City's adopted General Plan.

COMMENT #4: Because the Cisco site was not considered to be developable before 2020 and not included in the inventory of developable land in the General Plan, it is reasonable to conclude that approval of that development application would increase the City's capacity to accommodate employment growth beyond the 126,000 new jobs between 1995 and 2010 anticipated in the Plan (see General Plan Figure 13, p. 34). Unless the City proposes to decrease the potential for employment growth in other parts of the City if and when it approves the Cisco project, it must incorporate these additional jobs into its cumulative impact analysis for the General Plan and, currently, for the proposed Greenline/UGB.

Additional employment growth of up to 50,000 jobs (including Cisco) envisioned for Coyote Valley will carry with it additional demand for housing and public services, neither of which has been considered in the General Plan EIR or any of the Greenline/UGB environmental documents.

Consideration of a development proposal for the formerly-dismissed Coyote Valley is a significant change in conditions from the May, 1998 DEIR on the Greenline/UGB, and would require analysis of the environmental consequences of such development.

RESPONSE #4: There have been no significant changes in conditions from those analyzed in the May 1998 DEIR. North Coyote Valley has had development entitlements since 1983, and the 50,000 jobs have been part of the General Plan assumptions since then. It is incorrect to state that the Cisco site was not considered developable before 2020, or that the 50,000 jobs in Coyote were not included in the 126,000 jobs assumed in San Jose between 1995 and 2010.

As stated at the beginning of this section (on page 5 of this First Amendment to the RDEIR), development in North Coyote Valley has been assumed in San Jose's General Plan since 1983, and has been reflected in several area-specific EIRs and in the two EIRs done for General Plan updates since 1983 (*Horizon 2000 General Plan FEIR* certified in 1984 and *San Jose 2020 General Plan FEIR* certified in 1995).

COMMENT #5: 3. Inadequate Analysis of Cumulative Impacts

The RDEIR states, on page 38, that the list of currently-pending General Plan amendments was "evaluated together with the proposed UGB and the existing General Plan to determine whether or not any cumulatively significant impacts might result from approval of these amendments and of the UGB when considered in combination with the implementation of the General Plan."

The project list used in this analysis, however, is incomplete. Specifically, an application for the

Cisco Systems business park, which would contain 6.6 million square feet of building space on 385 acres of land in Coyote Valley (excluding the parcels reserved for open space), has been filed with the City but, because the application is not in the form of a General Plan Amendment, is not included in the project list considered in the UGB cumulative analysis. This is a huge omission in view of the scale of the Cisco project and the types of environmental impacts the General Plan itself anticipates in the Coyote Valley.

The fact that the Cisco project escaped the UGB's cumulative net raises the possibility that there may be other projects in the offing for which applications have been filed or are pending, which have not been included in the UGB's project list because they do not take the form of a General Plan Amendment. How many such projects have not been included, and the scale of projects omitted, is not known. It is inappropriate to fail to consider pending projects as part of the cumulative context solely on the grounds that they would require a General Plan Amendment.

The City of San Jose has issued a Notice of Preparation (NOP) for an EIR on the Cisco proposal, but - in light of the timing of the various projects - it is not sufficient to assert that environmental impacts of that project will be addressed in the noticed EIR. Because the proposal would significantly change amount of growth permitted by the General Plan and the demand for housing associated with the planned employment growth, it should be considered explicitly in the Greenline/UGB environmental analysis.

RESPONSE #5: This comment confuses the type of project that is addressed in the RDEIR, and the purpose of doing a cumulative analysis. It also is based on the same erroneous assumption that the Cisco Systems rezoning is a "new" project not already reflected in the City's General Plan.

The RDEIR is a recirculation of those sections of a previously prepared EIR that warranted recirculation for the purpose of complying with a court order (see Preface on page iii of the RDEIR). The project is a General Plan amendment that does not include any specific development. Given the level of specificity of the project, the cumulative impacts analysis in both the previously circulated EIR and the RDEIR evaluated development allowed by the existing General Plan, pending proposals to amend the General Plan and proposals that might conflict with the General Plan in order to identify significant cumulative impacts.

The *Campus Industrial* development in North Coyote Valley is allowed by the existing General Plan and its impacts are included in the cumulative impacts statements that are found throughout the May 1998 DEIR and the October 1999 RDEIR (see discussion on page 37 of the RDEIR). The proposed rezoning by Cisco Systems complies with the existing General Plan land use designation and land use policies that govern such development and would, therefore, not need to be called out as being different than what was assumed in the May 1998 DEIR (as was the case for the pending high school in the Coyote Greenbelt discussed on page 41 of the RDEIR, for example).

Contrary to the letter writer's implication, a cumulative analysis should not be prepared to analyze pending development twice, once as reflected in the

approved General Plan and again as a new specific development proposal. The cumulative analysis in the RDEIR conforms to CEQA requirements.

COMMENT #6: 4. Failure to Satisfy the Criteria for Further Review Established in the Initial Study (Changed Conditions)

The Initial Study, appended to the RDEIR, states (page 9):

"The analyses in this section are all based upon the assumption described in the UGB FEIR, that the proposed UGB simply reinforces existing General Plan policies which limit development outside of the USA. Therefore, the amount of planned development would not change with the adoption of the UGB. Furthermore, the UGB FEIR identifies what cumulative impacts would result from implementation of the existing General Plan with the UGB in place.

"The following discussion summarizes the current physical conditions in the project area, and compares those conditions to the 1998 existing setting described in the UGB FEIR to determine if project conditions changed in the one and a half years since the FEIR was prepared."

The ensuing discussion does not, however, live up to its commitment of determining whether conditions have changed, because the description of the Urban Reserves presented in the Land Use section of the Initial Study does not state that Coyote Valley is presumed not to develop during the life of the current General Plan. This document is the first in which that assertion does not appear, even though the Cisco application - which was filed with the City in June, 1999 - is nowhere mentioned. This change is significant, for the reasons discussed above.

These omissions are important because the text of the Initial Study establishes a basis for the material presented in the main text of the RDEIR.

RESPONSE #6: The proposed *Campus Industrial* area that is the subject of the Cisco Systems rezoning is not in the Urban Reserves, and no changes have occurred to the status of the Urban Reserves, therefore, this comment is not relevant. The comment is based upon the fallacious assumption that there has been a change in conditions. This statement is erroneous, and the material in the Initial Study is accurate; there are no omissions.

Attached to the letter from Sheppard, Mullin responded to above is another memo from Mundie & Associates, which is responded to below.

D. RESPONSE TO MEMO FROM SUZANNE LAMPERT, DATED AUGUST 17, 1998 AND ADDRESSED TO JACK RUBENS, SHEPPARD, MULLIN:

COMMENT #1: One of the subjects that you and I discussed last week was the response to a comment that appears at the bottom of p. 65 of the First Amendment to the DEIR. The response asserts that "the DEIR evaluates the potential impacts of urbanizing the Coyote Valley Urban Reserve, to the extent that such impacts can be identified at this time." Later (pp. 97 and 99), there are responses that refer to the locations where the DEIR addresses the impacts of development in the two urban reserves.

As we agreed, I have looked up those impact discussions to confirm that they appear as promised and to remind us of what they said. The most relevant portions are quoted in the table below. As I read this material, I was interested to find the expected severity of the impacts in light of the fact that the City has always emphasized the severity of impacts in the eastern hills, where the YCS property is located.

In addition to environmental obstacles and limitations, the DEIR cites some practical obstacles to development in the Urban Reserves in the form of inadequate utility systems, including insufficient downstream stormwater runoff capacity, and the need for supplemental wastewater conveyance capacity. This combination of factors suggests that development in the Urban Reserves cannot occur within an early time frame, may encounter impediments that can never be overcome, and may well have impacts of a greater severity than incremental development adjacent to the existing Urban Service Area boundary (e.g., on the YCS property).

I'll be interested to know if you share my reaction.

Numbers in parentheses are references to pages in the DEIR. Where the discussion occupies both the South Almaden and Coyote Valley columns as one entry, it applies to both.

RESPONSE #1: This comment discusses information contained in the previously prepared EIR, specifically, in the First Amendment to the DEIR dated August 1998. It does not contain any information that relates to the adequacy of the RDEIR or the information in the RDEIR. No response is required.

V. COPIES OF COMMENT LETTERS

Following this page are complete copies of all of the comment letters received on the Recirculated Draft Environmental Impact Report for the Greenline/Urban Growth Boundary for the City of San Jose Sphere of Influence.

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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San Jose, CA 95110-1795

RECEIVED

DEC 03 1999

CITY OF SAN JOSE
PLANNING DEPARTMENT

Re: Recirculated Draft Environmental Impact Report for the
Greenline/Urban Growth Boundary

Dear Ms. Caporgno:

This firm represents the owners of Young Ranch and the Richmond Ranch, which includes tracts of undeveloped land that will be affected by the proposed Greenline/Urban Growth Boundary (the "UGB"). The purpose of this letter is to provide you with our comments on the Recirculated Draft Environmental Impact Report (the "RDEIR") dated October, 1999.

A. SUMMARY OF COMMENTS

The purpose of an environmental impact report is to inform decision makers and the general public of the environmental effects of a proposed project. The RDEIR does not fulfill this function because it fails to consider numerous potential significant environmental impacts of the proposed UGB. These deficiencies are summarized as follows.

1. Impacts Outside UGB. The RDEIR fails to consider potential impacts of the proposed UGB on the lands outside of the UGB but within the sphere of influence of the City. Judge Nichols specifically ordered the City to consider such

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impacts. But the RDEIR does not consider even the most obvious of these. The proposed UGB creates tremendous pressure for growth in the Coyote Valley Urban Reserve. The proposed UGB is drawn tightly around the current Urban Service Area (the "USA") of the City, cutting off most areas for urban expansion (that is its stated purpose). However, the proposed UGB extends outward, beyond the USA, at the Southeastern corner of the City to encompass the Coyote Valley Urban Reserve (in addition to the Almaden Valley Urban Reserve). This extension of the UGB beyond the current USA is shown as the cross-hatched area to the Southeast on Figure 2 of the RDEIR. Permitting urban development in this large cross-hatched area and in the Almaden Valley Urban Reserve, while at the same time closing off most other areas for large scale development in San Jose, promotes accelerated development of these areas that will have impacts on the adjacent lands outside of the UGB. These impacts include increased traffic congestion on the already crowded nearby arterials (U.S. 101, Monterey Highway and Santa Teresa Boulevard), impacts on wildlife, air quality and noise, and pressure for development of roads, schools, power plants, housing and supporting facilities. The RDEIR should have considered these impacts and looked at alternatives to the project that would mitigate or eliminate these impacts.

2. New Information. The RDEIR incorrectly concludes that the previously prepared Final Environmental Impact Report for the UGB (the "FEIR") is "still adequate for the purposes of the proposed project except for the analysis of impacts outside the UGB, as required by the Court; and the discussion of Cumulative Impacts, in order to reflect the 1999 Annual Review of the City's General Plan." (RDEIR at page iii.) In fact, the FEIR is not "still adequate." The FEIR did not include any discussion of the potential impacts resulting from extending the UGB beyond the current USA to encompass the Coyote Valley Urban Reserve. The authors of the FEIR excluded consideration of these impacts based upon a fundamentally flawed assumption that "[t]he Coyote Valley Urban Reserve is not predicted to develop prior to 2020." (Draft EIR of May 1998, page 27.) According to the authors of the Draft EIR, "[a]doption of the UGB will not cause or enable any development in the Urban Reserves" Id.

The error of this assumption is now apparent. By including the Coyote Valley Urban Reserve as one of the last major developable areas within the UGB, it has been targeted for development. During the brief period that the UGB was in effect prior to being set aside by the Superior Court, plans to develop the area quickly

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surfaced. Specifically, the City accepted an application from Coyote Valley Research Park LLC to rezone a 688 acre portion of the Coyote Valley Urban Reserve to permit development of an industrial campus for Cisco Systems which is intended to house 20,000 new jobs. This proposal was made well before the preparation of the RDEIR. The RDEIR should have considered the impacts of extending the UGB beyond the USA to encompass the Coyote Valley Urban Reserve, including the dramatically accelerated (by 20 years or more) development of that area, and considered alternatives to mitigate or eliminate those impacts. Moreover, CEQA requires that the growth inducing impacts of the UGB be adequately analyzed in the environmental document. The UGB has induced accelerated growth in the Coyote Valley Urban Reserve, the impacts of which are legally required to be addressed in the RDEIR.

3. Cumulative Impacts. The additional cumulative impacts analysis in the RDEIR is deficient because it is limited to considering the cumulative impacts of pending General Plan Amendment applications. This artificial limitation excludes consideration of the project that is most likely to have cumulative impacts with the UGB - - the Coyote Valley Research Park. The proposed UGB intensifies the pressure for more dense urban development in San Jose by limiting the land available for new housing.¹ That trend will be exacerbated by the Coyote Valley Research Park if 20,000 new jobs come on line in San Jose and workers must find housing either within

¹ This is further exemplified by the City's 1999 General Plan Annual Review which included the addition of a new intensification corridor and sixteen applications for an increase in housing density, many of which have been tentatively approved by the City Council. The additional intensification corridor and all but four density increases were covered by negative declarations. Submitted under separate letter dated December 3, 1999 and incorporated herein by reference is Appendix 1 which includes (a) a document summarizing by District the requests for General Plan designation amendments in the 1999 San Jose General Plan Annual Review (this document is entitled "General Plan Environmental Review Status" (revised December 2, 1999); (b) City Council Meeting Synopses for November 8, November 15 and November 18, 1999; and (c) Staff Reports and other background documentation for the 1999 General Plan Annual Review, including both General Plan designation and text amendments (collectively identified in Appendix 1 as the "1999 General Plan Annual Review Materials").

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the confines of the UGB or in leap frog communities beyond the green belt. The potential cumulative impact of the Coyote Valley Research Park is especially acute because of the magnitude of the project and the fact that it is located very close to the proposed UGB. The RDEIR should have considered the cumulative impacts of the proposed Coyote Valley Research Park (which was a matter of public record well before the preparation of the RDEIR) and other potential development in the Coyote Valley and Almaden Urban Reserves, and considered alternatives to mitigate or eliminate these impacts.

4. Previously Identified Deficiencies. We have previously written to you identifying other deficiencies in the FEIR in our DEIR comment letter to you of June 29, 1998, together with the attached expert reports of Mundie and Associates, Smith Engineering & Management, Professor John D. Landis and Professor Gerrit Knapp, and our First and Second Amendments to DEIR comment letter to the City Council dated October 16, 1998, with attached exhibits. These letters are submitted as Appendix 2A and Appendix 2B, respectively, under separate letter dated December 3, 1999 and are incorporated herein by reference. We placed particular emphasis on the failure of the DEIR to consider the environmental impacts of intensified infill development and leap frog development that are a likely consequence of the adoption of the proposed UGB. None of the concerns identified in our previous letter have been addressed in the RDEIR and it is deficient for that reason.

B. ANALYSIS

1. The RDEIR is Deficient Because It Fails To Consider Significant Environmental Impacts of the UGB Project on the Area Outside of the UGB and Within the Sphere of Influence of the City of San Jose.

Judge Nichols found that the FEIR, certified by the San Jose City Council on October 20, 1998, was not prepared in the manner required by the California Environmental Quality Act ("CEQA")^{2/} because it failed to consider the impact of the UGB project on the existing environment outside of the proposed UGB and within the Sphere of Influence of the City of San Jose. A copy of Judge Nichols' decision is attached as Exhibit 1 and is incorporated herein by reference.

^{2/} California Public Resources Code § 21000 et seq.

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The RDEIR attempts to remedy this defect but its methodology is flawed. The City uses the approach of looking at the impact of the UGB legislation on existing General Plan policies and land use designations rather than on *the existing physical environment*. Using this flawed approach (and only by using this flawed approach), the City is able to conclude that the UGB will have no significant environmental impact. In the City's words, the proposed UGB will not have significant impacts outside of the UGB because:

Approval of the UGB will not allow any amount or type of development outside the UGB that is not already specifically allowed by the existing General Plan land use designations and policies, and appropriate ordinances.

This approach is contrary to reported decisional law in California. *Environmental Planning & Information Council v. County of El Dorado*, 131 Cal.App.3d 350, 354 (1982); *Christward Ministry v. Superior Court*, 184 Cal App.3d 180, 190 (1986); and *Gentry v. City of Murrieta*, 36 Cal.App.4th 1359 (1995); *see also* CEQA Guidelines § 15125(e).^{3/} The Superior Court specifically rejected the use of this approach in the environmental impact report for the present project.

The practical problem with the City's approach is that it ignores the fact that the proposed UGB project may cause significant impacts on the existing environment outside of the UGB *even though it does not change existing land use designations in that area*. One obvious example is traffic related impacts. If the UGB encourages intense urban development in an area *within* the UGB but adjacent to the boundary, traffic related impacts can be anticipated in the nearby area *outside* of the UGB. The City is not excused from studying significant traffic related impacts on the land outside of the UGB simply because land use designations did not change in that area.

This is precisely the situation that presently exists. The UGB promotes urban development in the Coyote Valley and Almaden Valley Urban Reserves, areas immediately adjacent to the urban boundary line created by the proposed UGB and

^{3/} Guidelines for Implementation of CEQA, tit. 14, Cal. Code Reqs. § 15000 et seq., referred to herein as the "CEQA Guidelines."

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specifically reserved to accommodate future growth. The proposed legislation does this in two related ways. First, the UGB by definition creates the boundary for urban development in San Jose. By drawing the UGB in such a way that it extends beyond the current USA (the present boundary of urban development in San Jose) to include the Coyote Valley and Almaden Valley Urban Reserves, those areas are designated for urban development. Second, by drawing the UGB tightly around the rest of the City, the UGB cuts off all other large areas of potential urban expansion, creating enormous pressure for immediate development of the Urban Reserves. The proposed Coyote Valley Research Park is an immediate example of the pressure for accelerated development in the Coyote Valley Urban Reserve (the UGB, although now set aside, was in effect at the time this project was first proposed.)

Both the FEIR and the RDEIR failed to consider traffic or other impacts of urban development in the cross-hatched portion of Coyote between the existing USA and the proposed new UGB. The impacts were not studied in the FEIR because the authors relied on a prediction by the City Planning Department that development would not occur in that area within the planning horizon of the 2020 General Plan. Whether or not that prediction was well founded in 1998, it is clearly no longer valid. On June 17, 1999, an application for a Planned Development Rezoning of 688 acres to allow 6.6 million square feet of campus industrial and research and development space was filed with the City for the Coyote Valley Research Park (File No. PDCSH 99-06-053). A Notice of Preparation of a Draft EIR for the Rezoning was issued by the City on September 8, 1999. Copies of the application, the Notice of Preparation and other materials in the project file (collectively the "Coyote Valley Research Park Application") are attached as Exhibit 2 and incorporated herein by reference. The possibility and indeed likelihood of immediate, intense urban development in the Coyote Valley Urban Reserve permitted by the configuration of the UGB was thus known at the time that the RDEIR was scoped and prepared. The RDEIR should thus have considered the possible significant environmental impacts of this development on adjacent areas outside of the UGB in order to comply with Judge Nichols' decision.

The failure of the RDEIR to consider potentially significant traffic related impacts is documented and discussed in the expert report of Smith Engineering and Management dated December 2, 1999 (the "Smith Report"). A copy of the Smith Report is attached hereto as Exhibit 3 and incorporated herein by reference. As the Smith Report points out, the RDEIR fails to include traffic counts or Level of Service

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analysis on the roadways serving areas outside the UGB, and the conclusory characterization of traffic impacts in this area is not supported by any analysis. In addition, the City did not include, although it should and easily could have included, the roadways outside the UGB but within the City's sphere of influence in the *Tranplan Model*, thereby rendering the analysis inadequate. The Smith Report notes that with the amount of development proposed by the Coyote Valley Research Park, approximately 150,000 new daily vehicle trips will be added in the region. These are impacts that should be included in the analysis of the UGB impacts.

In addition to traffic impacts, the rapid urbanization of the Coyote Valley Urban Reserve resulting from its inclusion within the proposed UGB may have other significant impacts on the environment on the adjacent area outside of the UGB including significant impacts on wildlife, air quality and noise, and pressure for development of roads, schools, power plants, housing and supporting facilities.

2. The RDEIR is Deficient Because it Failed to Consider Significant Environmental Impacts Likely to Result From the Inclusion of the Coyote Valley Urban Reserve Within the UGB.

The immediately preceding section focuses on the failure of the RDEIR to consider the impacts of potential development of the Coyote Valley and Almaden Valley Urban Reserves on the area *outside* of the UGB. However, the RDEIR is further deficient because it fails to consider *any* of the impacts of this potential development *regardless of location*. The potential significant impacts of development in these areas have never been considered in an environmental impact report. They were not studied in the Final EIR (Revised) for the 2020 General Plan because the authors assumed that no development would occur in the Coyote Valley Urban Reserve within the planning horizon of the 2020 General Plan. (Final EIR (Revised) for 2020 General Plan, page 57.) As discussed above, a similar assumption was made by the authors of the FEIR for the UGB. But this assumption, if ever valid, was no longer sustainable by the time that the RDEIR was prepared and the authors were well aware of this fact. The language at page 10 of the Initial Study of October 1999 (Appendix A to the RDEIR) discussing the Urban Reserves essentially tracks similar language in the prior FEIR with one notable exception, it no longer states that "The Coyote Valley Urban Reserve is not predicted to develop prior to 2020." However, the RDEIR (bottom of page 10) also includes the statement that "[m]ost of the land outside

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the City's existing USA does not have urban services and there are no plans to extend urban services to those areas," even though clearly urban services will be brought to the Coyote Valley Research Park. This statement appears to be a carry over of the City's position in the FEIR for the UGB that development within the Coyote Valley Urban Reserve would not occur within the time frame of the 2020 General Plan.

An environmental impact report ("EIR") must identify and assess both the direct and indirect significant environmental effects of a proposed project, examining both short and long term impacts. CEQA Guidelines § 15126.2(a). In addition to other required elements of an adequate EIR, the analysis must include the growth inducing impacts of the project, which, under the CEQA Guidelines (§ 15126.2(d)), calls for the following:

Discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Included in this are projects which would remove obstacles to population growth . . . Also discuss the characteristic of some projects which may encourage and facilitate other activities that could significantly affect the environment, either individually or cumulatively. It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment. ✓

The proposed UGB has just such growth inducing impacts in the Coyote Valley Urban Reserve and elsewhere. The proposed UGB extends beyond the present limit for urban development in San Jose (the USA) in both the Coyote Valley Urban Reserve and the Almaden Valley Urban Reserve. The areas where the UGB extends the limit for urban development beyond the current USA are shown as the cross-hatched areas on Figure 2 to the RDEIR. The potential growth inducing impacts of this policy are discussed in the accompanying report of Mundie & Associates, dated November 24, 1999 (the "Mundie Report"). A copy of the Mundie Report is attached hereto as Exhibit 4 and incorporated herein by reference.

As noted in the Mundie Report, City documents indicate that if the UGB is drawn to include the Coyote Valley Urban Reserve, as many as 50,000 new jobs and 25,000 new housing units are likely to be built in the area. The Mundie Report opines

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that this level of development will generate traffic with associated impacts on air quality, as well as demand for public facilities and services. The potential traffic impacts are discussed in greater detail in the Smith Report. Traffic and the other impacts identified by the Mundie Report should be studied in an EIR so that decision makers and members of the public can be fully informed before drawing the UGB to incorporate the Coyote Valley Urban Reserve.

The Mundie Report observes that the proposed configuration of the UGB to include the Coyote Valley Urban Reserve creates an extension of the current urban area of San Jose that extends much farther south along Highway 101 toward Morgan Hill than the current urban limit line. Mundie opines that development in this area will generate precisely the impacts that the City has purported to try to avoid by adopting a UGB: growth in locations that are distant from the central city with resulting demand for extension of infrastructure, construction of new public facilities and long travel distances for police and other mobile public service personnel. These potential impacts too should be studied in the EIR before action is taken on the proposal.

The Mundie Report also notes industrial development in the Coyote Valley Urban Reserve is likely to generate housing demand beyond the level that can be met by additional housing in the immediate area. Mundie opines that the additional housing units required to accommodate Coyote Valley workers would either be located elsewhere within the UGB, thereby creating additional urban intensification, or would result in leap frog development with associated impacts. These potential, significant environmental impacts should be studied so that decision makers and members of the public are fully informed before deciding upon the UGB proposal.

Finally, the Mundie Report points out that the potential development of the Coyote Valley Urban Reserve undermines all of the assumptions in the 2020 General Plan, the 2020 General Plan FEIR and the FEIR for the UGB concerning job growth, population growth and housing demand in San Jose during the planning horizon. Mundie concludes that the additional demand for housing and public services resulting from potential development of the Coyote Valley Urban Reserve has not been considered in prior environmental impact reports and requires analysis in the RDEIR.

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The time to perform this environmental analysis is *now*, not when specific projects come along for approval, such as the Coyote Valley Research Park. The decision makers are faced *now* with the policy choice of whether or not to extend the UGB limit line beyond the current USA to incorporate the Urban Reserves within the urban limits of the City. Full environmental analysis of the consequences of that choice should be available now, before they are required to decide. The law in California is clear. When a policy level decision, like the adoption of the UGB, has growth inducing impacts, environmental review should be performed *before* the decision makers adopt the policy -- not afterwards when specific projects come along. *Stanislaus Audubon Society, Inc. v. County of Stanislaus*, (1955) 22 Cal.App.4th 144, 157.

The City is not excused from performing important environmental analysis simply because the document now being circulated for comment is a Recirculated Draft EIR. Significant new information that comes to light at any time prior to certification of the EIR must be considered. *Laurel Heights Improvement Ass'n v. Regents of the Univ. of Calif.*, 6 Cal.4th 1112, 1132-33 (1993); see also Pub. Res. Code § 21092.1. The *Laurel Heights* court determined that new information is significant when it changes the EIR "in a way that deprives the public of a meaningful opportunity to comment upon a *substantial* adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect," in contrast to information that clarifies, amplifies or makes insignificant modifications to an EIR. *Id.* at page 1129-1130 (emphasis in original). When an important underlying assumption of the DEIR changes before certification, the DEIR must be updated to address the changed assumptions. *City of San Jose v. Great Oaks Water Company* 192 Cal.App.3d 1005, 1014-1016 (1987).

The City relies on CEQA Guidelines § 15088.5(f)(2) for recirculation of only those portions of the EIR that it contends were necessary to revise in order to address the deficiencies that the Superior Court found existed in the FEIR. In this case, the entire Draft EIR for the UGB should have been revised and a new Draft EIR circulated for public review and comment. It is impossible to revise selected portions of the FEIR when the underlying assumptions for the environmental analyses are wrong. Moreover, the City's purported analysis of the impacts of the UGB on the existing environment outside of the UGB and within the City's sphere of influence is conclusory and does not provide a meaningful assessment of impacts upon which a

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decision maker could rely in determining whether to adopt the UGB. The Initial Study prepared to determine whether, and to what extent, the FEIR remains adequate for the UGB concludes that the FEIR "addressed all of the impacts which might presently be anticipated to occur as a result of the adoption of the urban growth boundary." (page 29). It also concludes that the impacts identified and discussed in the FEIR have not substantively changed. But this simply is not the case, as major new development, with associated impacts, is now proposed outside the existing USA and within the boundaries of the proposed UGB. This major new development must be addressed in the EIR.⁴ For all of these reasons, we urge the City to fully address the environmental concerns regarding the inclusion of the Urban Reserves within the UGB prior to certification of the EIR.

3. The RDEIR is Deficient Because it Failed to Include Potential Urban Development of the Urban Reserves in its Cumulative Impacts Analysis.

An EIR for a project must discuss "cumulative impacts" of a project when they are significant. CEQA Guidelines § 15130 (a). A discussion of cumulative impacts must include either a list of past, present and probable future projects producing related or cumulative impacts or a summary of projections from an adopted general plan or related planning document (or in a prior environmental document which has been adopted or certified which described or evaluated regional or area wide conditions contributing to the cumulative impact). CEQA Guidelines § 15130 (b)(1). If a list approach is used, "probable future projects" may be limited to projects for which applications have been received at the time of the notice of preparation. In this case, we have been advised by the City that a notice of preparation of the RDEIR was

⁴ The City apparently has determined that the original Draft EIR, as revised by the RDEIR, is adequate for use in connection with re-adoption of the UGB. This is analogous to a decision to use an EIR prepared for an earlier project for a later project where circumstances have not changed (CEQA Guidelines § 15153), or where a lead agency determines that a Subsequent or Supplemental EIR is required because substantial changes in the circumstances under which the project will be undertaken have occurred, new information of substantial importance shows that the project will have significant impacts not discussed in the previous EIR, or the significant impacts previously examined will be substantially more severe (CEQA Guidelines § § 15162, 16163).

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not issued; however, the requisite time frame for including projects within the cumulative analysis should be projects for which applications have been submitted prior to commencement of the environmental analysis (*see* CEQA Guidelines § 15126.2(a)).

The notice attached to the RDEIR indicating the issuance of the RDEIR and informing interested parties of the date by which comments are due is dated October 22, 1999. The Coyote Valley Research Park Application was filed prior to this date and is under consideration by the City. In addition, a related General Plan Amendment to change Urban Design policies related to the height limits (to allow for building heights up to 120 feet) was filed and has been tentatively approved by the City Council (File No. GP99-T-3) on November 18, 1999., and a negative declaration for the General Plan Amendment adopted by the City (*see* Appendix 1).

The Mundie Report opines that the failure to consider this project in the Cumulative Impacts section of the RDEIR was " . . . a huge omission in view of the scale of the Coyote Valley Research Park and the types of environmental impacts the General Plan itself anticipates in Coyote Valley." (Mundie Report, page 4.) The City offers no explanation, nor can there be a meritorious explanation, for not examining the cumulative impacts of this project in the RDEIR.

The potential cumulative impacts of the proposed UGB project and the proposed Coyote Valley Research Park are obvious. "Cumulative impacts" are "two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts." CEQA Guidelines § 15355; *see also* Pub. Res. Code § 21083(b). The City has already recognized in the FEIR that the UGB may accelerate the pace of urban infill in San Jose. The Coyote Valley Research Park project is likely to have a similar, compounding effect, adding approximately 20,000 new jobs to the San Jose metropolitan area and increasing demand for housing within the tightly drawn limits of the proposed UGB.

Just such impacts have been recognized by the courts as being potential impacts of guidelines or policies which have the effect of restricting development. In *City of Livermore v. Local Agency Formation Com.*, 84 Cal. App. 3d 531 (1986), the Alameda LAFCO revised its sphere of influence guidelines to provide that future incorporation of urban development outside an existing sphere of influence would be

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subject to county, rather than city, jurisdiction. *Id.* at 541. Recognizing that the guideline revision could result in significant environmental impacts, the court overturned the negative declaration adopted by LAFCO, based primarily on a report by a planning consultant that the shift to county jurisdiction would lower the threshold for urbanization in unincorporated areas. *Id.* at 541-42. Creation of the UGB represents a similar and significant shift in land use policy that not only will "lower the threshold" for and induce, intensify and accelerate development within the UGB, ***but already has had that effect***. The RDEIR fails to analyze in any meaningful way the environmental impacts associated with this accelerated development.

Like the court inferred in *San Franciscans for Reasonable Growth v. City and County of San Francisco*, 151 Cal. App. 3d 61, 74 (1984), that the only reason for the San Francisco Planning Commission's failure to consider and analyze, in connection with an EIR for a downtown office highrise, three other similar project then under review by the City, was that "it was more expedient to ignore them," this is the only reason we can attribute to the City's failure to include an analysis of the Coyote Valley Research Park in the cumulative impact analysis for the UGB. The City was aware of the Coyote Valley Research Park Application well before preparation of the RDEIR and welcomed the project as a major contribution to the City (see June 24, 1999 letter from James Derryberry to David Taran, included in Appendix 1) indicating the importance of the project to the City and the recommendation that it should receive special handling treatment). The RDEIR should include this project as part of the cumulative impact analysis.

4. The RDEIR is Deficient Because it Incorporates the FEIR, Which Itself is Deficient for Reasons Previously Brought to Your Attention.

In our previous letters to you and the City Council on the EIR prepared for the UGB (Appendix 2A and Appendix 2B), we pointed out, in addition to other items, the following inadequacies of the DEIR, which still apply as the RDEIR did not correct these deficiencies:

a. The EIR fails to accurately describe the project that is the subject of environmental review because it does not acknowledge that the UGB creates a permanent prohibition rather than merely maintaining the status quo and, therefore, having no effect on the environment.

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b. The EIR unlawfully limits its analysis to the Year 2010 instead of 2020 and it fails to adequately analyze the environmental impacts of the UGB because (i) the direct impacts analyzed are those resulting from buildout of the General Plan rather than the UGB; (ii) the project housing demand information upon which the City draws the conclusion that no housing shortage will exist in San Jose through the horizon of the General Plan is inaccurate and misleading; (iii) the City already has increased urban density at levels that exceed those planned for in the General Plan; (iv) the City concludes that the housing stock is more than adequate to meet the demand generated by the number of jobs in the City through buildout of the General Plan; and (v) although correctly acknowledging that the UGB may accelerate densification, the EIR fails to examine the foreseeable impacts.

c. The EIR fails to analyze the secondary impacts of the UGB.

d. The EIR fails to address the impacts of reasonably foreseeable leap frog development resulting from the UGB, including but not limited to secondary impacts, increased pressures for leap frog development due to reducing already limited housing capacity with adoption of the UGB, and whether the UGB is drawn too tightly.

e. The EIR includes an impermissibly high threshold of significance for evaluating land use impacts.

f. The EIR fails to analyze the potential impact of the project on the location, distribution, density or growth of a population.

g. The EIR analysis of growth inducing impacts is inadequate.

h. The EIR incorrectly assumes that future adherence to traffic standards will prevent traffic impacts.

i. The EIR contains significant flaws in the traffic analysis.

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j. The EIR fails to adequately analyze alternatives other than the no-project alternative. An EIR must analyze a reasonable range of project alternatives.

k. The EIR fails to consider the impact of the UGB on affordable housing.

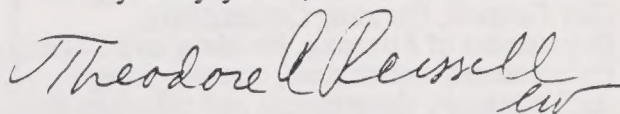
l. The FEIR fails to adequately respond to comments on the Draft EIR.

All of the deficiencies identified in our previous correspondence on the FEIR (contained in Appendix 2A and Appendix 2B) remain.

C. CONCLUSION

The RDEIR fails to address the deficiencies identified by the court and the court's order by failing to adequately analyze the impacts of the UGB on the existing environment outside the UGB and within the City's sphere of influence. This deficiency, coupled with the failure to address the planned Coyote Valley Research Park and other potential development in the Urban Reserves, render the RDEIR fatally flawed. In addition, the underlying Draft EIR that the RDEIR purports to revise is inadequate for all of the reasons stated in this letter and the City must correct the deficiencies before it can act to readopt the UGB. We respectfully request that the City revise the RDEIR to comply with CEQA and the court's directive, and recirculate the document.

Very truly yours,

A handwritten signature in cursive script that reads "Theodore A. Russell". The signature is written in dark ink and is positioned above the printed name.

Theodore A. Russell

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SF:FTR\LET\MVB\61177665.1

cc: San Jose City Council

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(ENDORSED)
FILED
 OCT 14 1999

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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 13 FOR THE COUNTY OF SANTA CLARA

14 RANDALL NAESS, EDMUND N.
 15 RICHMOND II, and JOHN C. PFAHNL,
 16 Co-trustees of the Testamentary Trust
 17 Created by the Will of Edmund N.
 18 Richmond, deceased; YOUNGVILLE
 19 DEVELOPMENT, INC., a California
 20 corporation; YOUNGVILLE HOLDINGS,
 21 INC., a California Corporation;
 22 EDENVALE HOLDINGS, INC., a
 23 California corporation; and YCS
 24 INVESTMENTS, a California corporation,

20 Petitioners,

21 v.

22 THE CITY OF SAN JOSE, a municipal
 23 corporation and political subdivision of the
 24 State of California acting by and through its
 25 City Council, Planning Commission,
 26 Department of Planning, Building and Code
 27 Enforcement, committees, commissioners,
 28 staff, agencies, departments and officials; and
 DOES 1 THROUGH 50, inclusive,

27 Respondents.

Case No. CV 778102

NOTICE OF ENTRY OF

- (1) ORDER GRANTING PETITION FOR PEREMPTORY WRIT OF MANDATE;
- (2) PEREMPTORY WRIT OF MANDATE; and
- (3) JUDGMENT

BY FAX

-1-

SF-FGVFLDMVB61143315.1

NOTICE OF ENTRY OF ORDER, etc.
 Case No. CV 778102

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 Fax & File

DATE 10/14/99
 GROUP 114
 DOCUMENT 114
 FILED BY 114
 8713455

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership Including
Professional Corporations
THEODORE A. RUSSELL, CAL. BAR NO. 45874
JACK H. RUBENS, CAL. BAR NO. 106240
KRISTEN A. JENSEN, CAL. BAR NO. 130196
GRANT P. FONDO, CAL. BAR NO. 181530
4 Embarcadero Center, Suite 1700
San Francisco, California 94111-4106/Telephone: (415) 434-9100

Attorneys for all Petitioners

AIKEN, KRAMER & CUMMINGS, INC.
RICHARD A. SIPOS, CAL. BAR NO. 126982
1111 Broadway, 15th Floor
Oakland, California 94607/Telephone: (510) 834-6800

Attorneys for Petitioners
RANDALL NAESS,
EDMUND N. RICHMOND II,
and JOHN C. PFAHNL, as Co-Trustees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

RANDALL NAESS, EDMUND N.
RICHMOND II, and JOHN C. PFAHNL,
Co-trustees of the Testamentary Trust
Created by the Will of Edmund N.
Richmond, deceased; YOUNGSVILLE
DEVELOPMENT, INC., a California
corporation; YOUNGSVILLE HOLDINGS,
INC., a California Corporation;
EDENVALE HOLDINGS, INC., a
California corporation; and YCS
INVESTMENTS, a California corporation,

Petitioners,

v.

THE CITY OF SAN JOSE, a municipal
corporation and political subdivision of the
State of California acting by and through its
City Council, Planning Commission,
Department of Planning, Building and Code
Enforcement, committees, commissioners,
staff, agencies, departments and officials; and
DOES 1 THROUGH 50, inclusive,

Respondents.

Case No. CV 778102

NOTICE OF ENTRY OF

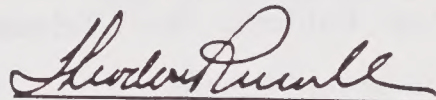
- (1) ORDER GRANTING PETITION
FOR PEREMPTORY WRIT OF
MANDATE;
- (2) PEREMPTORY WRIT OF
MANDATE; and
- (3) JUDGMENT

1 PLEASE TAKE NOTICE that on October 13, 1999, the Court entered the
2 attached documents entitled Order Granting Petition for Peremptory Writ of Mandate
3 (Exhibit A); Peremptory Writ of Mandate (Exhibit B); and Judgment (Exhibit C).
4

5 Dated: October 14, 1999
6

7 SHEPPARD, MULLIN, RICHTER &
8 HAMPTON LLP

9
10 By



THEODORE RUSSELL

11 Attorneys for Petitioners
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(ENDORSED)
FILED

OCT 13 1999

STEPHEN V. LOVE
County Clerk
Santa Clara County

BY DIANA MUNZ

DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

RANDALL NAESE, EDMUND N.
RICHMOND II, and JOHN C. PFAHNL,
Co-Trustees of the Testamentary Trust
Created by the Will of Edmund N.
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THE CITY OF SAN JOSE, a municipal
corporation and political subdivision of the
State of California acting by and through its
City Council, Planning Commission,
Department of Planning and Building,
committees, commissioners, staff, agencies,
departments and officials; and DOES 1
THROUGH 50, inclusive,

Respondents.

Case No. CV778102

~~PROPOSED~~ ORDER GRANTING
PETITION FOR PEREMPTORY
WRIT OF MANDATE

This matter came on regularly for hearing on September 9, 1999 in Department 6 of
the Court located at 191 North First Street, San Jose, California. Theodore A. Russell and
Jack H. Rubens of Sheppard, Mullin, Richter & Hampton LLP appeared on behalf of
Petitioners Randall Naess, Edmund N. Richmond II, and John C. Pfahnl, Co-Trustees of the
Testamentary Trust Created by the Will of Edmund N. Richmond, Deceased ("Co-Trustee

EXHIBIT A

1 Petitioners"), Youngsville Development, Inc., Youngsville Holdings, Inc., Edenvale
2 Holdings, Inc., and YCS Investments (collectively, "Petitioners"); Richard A. Sipos of Aiken,
3 Kramer & Cummings, Inc. appeared on behalf of Co-Trustee Petitioners; and Joseph P.
4 DiCiuccio and Kevin Siegel appeared on behalf of respondent The City of San Jose (the
5 "City").
6

7 The Court, having reviewed the record of the City's proceedings in this matter,
8 the briefs submitted by counsel and the arguments of counsel, and the matter having been
9 submitted for decision, the Court finds as follows:
10

11 The Final Environmental Impact Report for the Greenline/Urban Growth
12 Boundary (the "FEIR") certified by the City Planning Commission and approved by the San
13 Jose City Council (the "City Council") on October 20, 1998 pursuant to Resolution
14 No. 68502 failed to comply with the provisions of the California Environmental Quality Act
15 because it did not adequately analyze the impacts of the Greenline/Urban Growth Boundary
16 (the "UGB") on the existing environment outside of the UGB and within the City's sphere of
17 influence.
18

19 Now, therefore, IT IS ORDERED that:
20

21 1. Judgment be entered in favor of the Petitioners in this proceeding (Case
22 No. CV778102).
23

24 2. A peremptory writ of mandate directed to the City be issued under seal
25 of this Court, which:
26
27
28

1 (a) Commands the City to set aside: (i) the certification and approval of the
2 FEIR; and (ii) the adoption of the UGB, including, without limitation,
3 the City Council's approval of amendments GP 96-UGB and GP 96-T-3
4 to the City's 2020 General Plan on October 20, 1998 pursuant to
5 Resolution No. 68503, the City Council's approval of amendments to
6 Title 18 of the City's Municipal Code on October 20 and November 3,
7 1998 pursuant to Ordinance No. 25706, and the City Council's approval
8 of a Joint City/County Policy Statement on October 20, 1998 pursuant
9 to Resolution 68502.

10
11 (b) Enjoins any and all future action by the City to establish or implement
12 an urban growth boundary until the City has taken such actions as may
13 be necessary to comply fully with the requirements of the California
14 Environmental Quality Act. *The Court retains jurisdiction*
15 *inter alia, to determine compliance.* LCH

16 3. Petitioners shall recover their costs in this proceeding.

17
18 4. The Court retains jurisdiction to determine Petitioners' entitlement to
19 attorneys' fees pursuant to California Code of Civil Procedure Section 1021.5 and all other
20 applicable laws upon motion by Petitioners.

21 *October*
22 Dated: ~~September~~ *13*, 1999

23
24 **LESLIE C. NICHOLS**

25 **THE HONORABLE LESLIE C. NICHOLS**
26 **JUDGE, SUPERIOR COURT**

(ENDORSED)
FILED

OCT 13 1999

STEPHEN V. LOVE
County Clerk
Santa Clara County
BY DIANA MUNZ DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

RANDALL NAESS, EDMUND N.
RICHMOND II, and JOHN C. PFAHNL,
Co-Trustees of the Testamentary Trust
Created by the Will of Edmund N.
Richmond, deceased; YOUNGSVILLE
DEVELOPMENT, INC., a California
corporation; YOUNGSVILLE HOLDINGS,
INC., a California corporation;
EDENVALE HOLDINGS, INC.,
a California corporation; and YCS
INVESTMENTS, a California corporation,

Petitioners,

v.

THE CITY OF SAN JOSE, a municipal
corporation and political subdivision of the
State of California acting by and through its
City Council, Planning Commission,
Department of Planning and Building,
committees, commissioners, staff, agencies,
departments and officials; and DOES 1
THROUGH 50, inclusive,

Respondents.

Case No. CV778102

~~[PROPOSED]~~

PEREMPTORY WRIT OF
MANDATE

This matter came on regularly for hearing on September 9, 1999 in Department 6 of
the Court located at 191 North First Street, San Jose, California. Theodore A. Russell and
Jack H. Rubens of Sheppard, Mullin, Richter & Hampton LLP appeared on behalf of
Petitioners Randall Naess, Edmund N. Richmond II, and John C. Pfahnl, Co-Trustees of the
Testamentary Trust Created by the Will of Edmund N. Richmond, Deceased ("Co-Trustee

EXHIBIT B

1 Petitioners"), Youngsville Development, Inc., Youngsville Holdings, Inc., Edenvale
2 Holdings, Inc., and YCS Investments (collectively, "Petitioners"); Richard A. Sipos of Aiken
3 Kramer & Cummings, Inc. appeared on behalf of Co-Trustee Petitioners; and Joseph P.
4 DiCiuccio and Kevin Siegel appeared on behalf of respondent The City of San Jose (the
5 "City").
6

7 The Court, having reviewed the record of the City's proceedings in this matter,
8 the briefs submitted by counsel and the arguments of counsel, and the matter having been
9 submitted for decision, the Court finds as follows:
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11 The Final Environmental Impact Report for the Greenline/Urban Growth
12 Boundary (the "FEIR") certified by the City Planning Commission and approved by the San
13 Jose City Council (the "City Council") on October 20, 1998 pursuant to Resolution
14 No. 68502 failed to comply with the provisions of the California Environmental Quality Act
15 because it did not adequately analyze the impacts of the Greenline/Urban Growth Boundary
16 (the "UGB") on the existing environment outside of the UGB and within the City's sphere of
17 influence.
18

19 Now, therefore, IT IS ORDERED that:
20

21 1. Judgment be entered in favor of the Petitioners in this proceeding (Case
22 No. CV778102).
23

24 2. A peremptory writ of mandate directed to the City be issued under seal
25 of this Court, which:
26
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1 (a) Commands the City to set aside: (i) the certification and approval of the
2 FEIR; and (ii) the adoption of the UGB, including, without limitation,
3 the City Council's approval of amendments GP 96-UGB and GP 96-T-3
4 to the City's 2020 General Plan on October 20, 1998 pursuant to
5 Resolution No. 68503, the City Council's approval of amendments to
6 Title 18 of the City's Municipal Code on October 20 and November 3,
7 1998 pursuant to Ordinance No. 25706, and the City Council's approval
8 of a Joint City/County Policy Statement on October 20, 1998 pursuant
9 to Resolution 68502.

10
11 (b) Enjoins any and all future action by the City to establish or implement
12 an urban growth boundary until the City has taken such actions as may
13 be necessary to comply fully with the requirements of the California
14 Environmental Quality Act. *The Court retains jurisdiction,*
15 *inter alia, to determine compliance. LCN*

16 3. Petitioners shall recover their costs in this proceeding.

17
18 4. The Court retains jurisdiction to determine Petitioners' entitlement to
19 attorneys' fees pursuant to California Code of Civil Procedure Section 1021.5 and all other
20 applicable laws upon motion by Petitioners.

21
22 Dated: *October* ~~September~~ 13, 1999

23
24
25 **LESLIE C. NICHOLS**

26 **THE HONORABLE LESLIE C. NICHOLS**
27 **JUDGE, SUPERIOR COURT**
28

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4 SUPERIOR COURT OF THE STATE OF CALIFORNIA
5 FOR THE COUNTY OF SANTA CLARA
6

7 RANDALL NAESS, EDMUND N.
8 RICHMOND II, and JOHN C. PFAHNL,
9 Co-Trustees of the Testamentary Trust
10 Created by the Will of Edmund N.
11 Richmond, deceased; YOUNGSVILLE
12 DEVELOPMENT, INC., a California
13 corporation; YOUNGSVILLE HOLDINGS,
14 INC., a California corporation;
15 EDENVALE HOLDINGS, INC.,
16 a California corporation; and YCS
17 INVESTMENTS, a California corporation,

18 Petitioners,

19 v.

20 THE CITY OF SAN JOSE, a municipal
21 corporation and political subdivision of the
22 State of California acting by and through its
23 City Council, Planning Commission,
24 Department of Planning and Building,
25 committees, commissioners, staff, agencies,
26 departments and officials; and DOES 1
27 THROUGH 50, inclusive,

28 Respondents.

Case No. CV778102

~~PROPOSED~~ JUDGMENT

23 This matter came on regularly for hearing on September 9, 1999 in
24 Department 6 of the Court located at 191 North First Street, San Jose, California.
25 Theodore A. Russell and Jack H. Rubens of Sheppard, Mullin, Richter & Hampton LLP
26 appeared on behalf of Petitioners Randall Naess, Edmund N. Richmond II, and John C.
27 Pfahnl, Co-Trustees of the Testamentary Trust Created by the Will of Edmund N. Richmond,

28 EXHIBIT C

1 Deceased ("Co-Trustee Petitioners"), Youngsville Development, Inc., Youngsville Holdings,
2 Inc., Edenvale Holdings, Inc., and YCS Investments (collectively, "Petitioners"); Richard A.
3 Sipos of Aiken, Kramer & Cummings, Inc. appeared on behalf of Co-Trustee Petitioners; and
4 Joseph P. DiCiuccio and Kevin Siegel appeared on behalf of respondent The City of
5 San Jose (the "City").
6

7 The Court, having reviewed the record of the City's proceedings in this matter,
8 the briefs submitted by counsel and the arguments of counsel, and the matter having been
9 submitted for decision, the Court finds as follows:
10

11 The Final Environmental Impact Report for the Greenline/Urban Growth
12 Boundary (the "FEIR") certified by the City Planning Commission and approved by the San
13 Jose City Council (the "City Council") on October 20, 1998 pursuant to Resolution
14 No. 68502 failed to comply with the provisions of the California Environmental Quality Act
15 because it did not adequately analyze the impacts of the Greenline/Urban Growth Boundary
16 (the "UGB") on the existing environment outside of the UGB and within the City's sphere of
17 influence.
18

19 Therefore, IT IS ORDERED, ADJUDGED AND DECREED that:
20

21 1. Judgment is entered in favor of the Petitioners and each of them in this
22 case (Case No. CV 778102).
23

24 2. Respondent City is ordered to set aside (i) the certification and approval
25 of the FEIR; and (ii) the adoption of the UGB, including, without limitation, the City
26 Council's approval of amendments GP 96-UGB and GP 96-T-3 to the City's 2020 General
27 Plan on October 20, 1998 pursuant to Resolution No. 68503, the City Council's approval of
28

1 amendments to Title 18 of the City's Municipal Code on October 20 and November 3, 1998
2 pursuant to Ordinance No. 25706, and the City Council's approval of a Joint City/County
3 Policy Statement on October 20, 1998 pursuant to Resolution 68502.

4
5 3. Respondent City is enjoined from taking any and all action to establish
6 or implement an urban growth boundary until the City has taken such actions as may be
7 necessary to comply fully with the requirements of the California Environmental Quality
8 Act. *The Court retains jurisdiction, inter alia, to determine compliance.* LCN

9
10 4. Petitioners shall recover their costs in this proceeding.

11
12 5. The Court retains jurisdiction to determine Petitioners' entitlement to
13 attorneys' fees pursuant to California Code of Civil Procedure Section 1021.5 and all other
14 applicable laws upon motion by Petitioners.

15
16 *October*
17 Dated: ~~September~~ *13*, 1999

18 **LESLIE C. NICHOLS**
19 **LESLIE C. NICHOLS**
20 **JUDGE OF THE SUPERIOR COURT**

21 Judgment entered on _____, 1999, in Vol. _____ of the Judgment
22 Book, page _____.

23
24 Clerk _____

25
26 By _____
27 Deputy

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On October 14, 1999, I served the following document:

by placing x a true copy the original in a separate envelope for each addressee named below, with the name and address of the persons served shown on the envelope as follows:

Richard A. Sipos, Esq.
Aiken, Kramer & Cummings, Inc.
1111 Broadway, 15th Floor
Oakland, California 94607

Executed on October 14, 1999, at San Francisco, California. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Kathleen Sugar

**Department of City Planning, Building and Code Enforcement**

801 North First Street, Room 400
San Jose, CA 95110
(408)277-4576 (408)277-3250 Fax

File Number	PDC99-06-053	Council District	2	Planning Area	Coyote
Filing Date	6/17/99	Project Manager	Jeff Roche	Tech	WO
Env. Status		Env. Approval Date			
Annexation	()	Previous Files	PDSH98-02-009, -010, PT98-04-056		
Description	Planned Development Rezoning of a 688 gross acre site to allow 6.6 million square feet of campus industrial and research and development space				
Location	both sides of Santa Teresa Boulevard, northerly of Bailey Avenue and southerly of Tulare Hill				
Owner:	Coyote Valley Research Park LLC				
APN	various in 708-25, -26, -27, -28, -30	Census Tract	5121.00		
Existing Use	Agricultural (90)	Proposed Use	Ind. Non-Manufacturing (10)		
Specific Use	Industrial Shell - Unknown Uses (2000)				
		Zoning Map Number	144		
Existing Zoning	A / A(PD)	Proposed Zoning	A(PD)		
G.P. Designation	CI / NUH	G.P. Code / Conformance	CI / NUH /		
Gross Acres	688	Net Acres	362		
Gross Floor Area	6,600,000	No. of Stories	Buildings		
No. of Units	0	Type of Unit			
No. of Existing Lots	12	No. of Proposed Lots			
Parking Sp. Required		Parking Spaces Proposed			
Est. Occupancy Date					
Elem. School District		High School District			
Special Districts		Redevelopment Area			

Environmental Checklist:

☐ Historic☐ Archaeology Zone☐ Other:☒ Noise 60 db☐ Other:☐ Envelopes:

set(s)

PROJECT APPLICATION SUMMARY

2 sets of
envelopes
6/22/99
88

**Department of Planning, Building and Code Enforcement**

801 North First Street, Room 400
San Jose, CA 95110
(408) 277-4576

PLANNED DEVELOPMENT ZONING APPLICATION

TO BE COMPLETED BY DEPARTMENT OF CITY PLANNING STAFF

FILE NUMBER PDC 99-06-053		COUNCIL DISTRICT 2	RECEIPT #: 733867
PROJECT LOCATION Both sides of Santa Teresa Blvd., northerly of Bailey Avenue			AMOUNT: 442,158.50
ZONING A-Agriculture & A(PD)	GENERAL PLAN Non Urban Hillside & Campus Industrial	QUAD NUMBER 143, 144 & 157	DATE: 6/17/99 BY: Jeff Roche

**TO BE COMPLETED BY THE APPLICANT
(PLEASE PRINT OR TYPE)**

Pursuant to the Provisions of Chapter 20.40 of the Municipal Code, City of San Jose, California, Petition is made to rezone/prezone property as described.
FOR THE PROPERTY LOCATED AT: **Both Sides of Santa Teresa Blvd., North of Bailey Ave. and South of Tulare Hill**

ASSESSOR'S PARCEL NUMBER(S) (APN) 708-25-001,002/708-26-001,002/708-27-001,007,012,013 708-28-002/708-30-008,012,011	GROSS ACREAGE +/- 688 AC	NET ACREAGE +/- 362 AC
EXISTING USE OF PROPERTY Vacant, Agriculture	ESTIMATED DATE OF OCCUPANCY (MONTH/YEAR) To Be Determined	
PROPOSED USE OF PROPERTY Campus Industrial, Office, Research and Development		
PROPOSED REZONING FROM THE A(PD) ZONING DISTRICT TO THE A (PD) PLANNED DEVELOPMENT ZONING DISTRICT		
IF PROPOSAL IS RESIDENTIAL - NUMBER OF UNITS: N/A TYPE OF UNITS:	IF PROPOSAL IS NON-RESIDENTIAL - NEW GROSS BUILDING SQUARE FOOTAGE 6.6 Million	
THE FOLLOWING EXHIBITS ARE ATTACHED HERETO AND MADE A PART THEREOF BY REFERENCE. ☒ A LEGAL DESCRIPTION OF SUBJECT PROPERTY - EXHIBIT A ☒ PRELIMINARY TITLE REPORT ☒ THE COMPLETE GENERAL DEVELOPMENT PLAN SET FOR THE SUBJECT PROPERTY, ENTITLED General Development Plan - Exhibit C DATED 6/16/99 AND LAST REVISED 6/16/99 CONSISTING OF 11 SHEETS		

NOTICE: THIS APPLICATION IS ACCEPTED BY APPOINTMENT ONLY. CALL 294-PLAN (7526).

AFFIDAVIT OF OWNERSHIP

THE UNDERSIGNED HEREBY DECLARE THAT THE FOLLOWING IS TRUE AND CORRECT:

1. **Ownership.** The undersigned are all the owners of all the property described in Exhibit A - Legal Description of Subject Property, or lawful power of attorney of the entire subject site.
2. **Easements.** The development plans a part of this application show the exact location, size, and use of all easements on the subject site and all easement on surrounding properties benefiting the subject property.
3. **Water Wells.** If there are any existing active or deactivated water wells on your property, they must be shown on your plans. The property which is the subject of this application:

- ☐ does contain existing active or deactivated water wells and they are shown on the plans accompanying this application
- ☒ does not contain existing active or deactivated water wells.

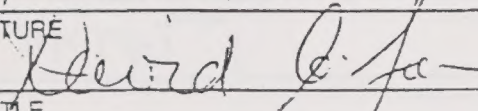
4. **Hazardous Waste and Substances.** In conformance with Section 65962.5 of the California Government Code, and as owner(s) of the property referenced below, I(we) hereby certify that I(we) have reviewed the list of Hazardous Waste and Substance Sites within the City of San Jose, as compiled by the State Office of Planning and Research.

The property which is the subject of the above-referenced application is _____ is not _____ included on said list. If included on the List, the listed item reads as follows:

THE UNDERSIGNED HEREBY DECLARE THAT THEY UNDERSTAND THE FOLLOWING APPLIES TO THEIR PROJECT:

Notice to Applicants regarding effect of Wastewater treatment capacity on land development approvals. Part 2.75 of Chapter 15.12 of the San Jose Municipal Codes requires that an applicant acknowledge the effect of Wastewater treatment capacity on Land development approvals at the time of application. As owner (s) of the property subject to this development application, I(we) hereby acknowledge the requirements of the Municipal Code, as stated below, and understand that these requirements will apply to the development permit for which I(we) am(are) applying.

Pursuant to Part 2.75 of Chapter 15.12 of the San Jose Municipal Code, no vested right to a building permit shall accrue as the result of the granting of any land development approvals and applications when and if the City Manager makes a determination that the cumulative sewage treatment demand on the San Jose-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of the San Jose-Santa Clara Water Pollution Control to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approving authority.

PRINT NAME OF OWNER OR FIRM COYOTE VALLEY RESEARCH PARK, LLC		DAYTIME TELEPHONE # (408) 293-9600	
ADDRESS 150 ALMADEN BLVD., SUITE 700	CITY SAN JOSE,	STATE CA	ZIP CODE 95113
OWNER'S SIGNATURE 		DATE 6/15/99	
PRINT NAME & TITLE DAVID A. TARAN MEMBER			
IF THERE ARE ADDITIONAL PROPERTY OWNERS, PLEASE USE THE FOLLOWING PAGE TO PROVIDE THE ABOVE INFORMATION.			

NOTICE: THIS APPLICATION IS ACCEPTED BY APPOINTMENT ONLY. CALL 294-PLAN (7526).

AFFIDAVIT OF OWNERSHIP

THE UNDERSIGNED HEREBY DECLARE THAT THE FOLLOWING IS TRUE AND CORRECT:

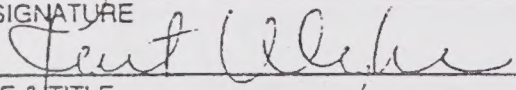
1. **Ownership.** The undersigned are all the owners of all the property described in Exhibit A - Legal Description of Subject Property, or lawful power of attorney of the entire subject site.
2. **Easements.** The development plans a part of this application show the exact location, size, and use of all easements on the subject site and all easement on surrounding properties benefiting the subject property.
3. **Water Wells.** If there are any existing active or deactivated water wells on your property, they must be shown on your plans. The property which is the subject of this application:
 - ☒ does contain existing active or deactivated water wells and they are shown on the plans accompanying this application
 - ☐ does not contain existing active or deactivated water wells.
4. **Hazardous Waste and Substances.** In conformance with Section 65962.5 of the California Government Code, and as owner(s) of the property referenced below, I(we) hereby certify that I(we) have reviewed the list of Hazardous Waste and Substance Sites within the City of San Jose, as compiled by the State Office of Planning and Research.

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PRINT NAME OF OWNER OR FIRM		DAYTIME TELEPHONE #	
ROBERT WEYHE		()	
ADDRESS	CITY	STATE	ZIP CODE
97 WILLOW STREET	SAN JOSE	CA	95110
OWNER'S SIGNATURE		DATE	
		6/15/99	
PRINT NAME & TITLE			
Robert Weyhe, OWNER			
IF THERE ARE ADDITIONAL PROPERTY OWNERS, PLEASE USE THE FOLLOWING PAGE TO PROVIDE THE ABOVE INFORMATION.			

NOTICE: THIS APPLICATION IS ACCEPTED BY APPOINTMENT ONLY. CALL 294-PLAN (7526).

AFFIDAVIT OF OWNERSHIP

THE UNDERSIGNED HEREBY DECLARE THAT ITEMS 1 THROUGH 4 ON PAGE 2 OF THIS APPLICATION ARE TRUE AND CORRECT, AND DECLARE THAT THEY UNDERSTAND THAT ITEM 5 ON PAGE 2 OF THIS APPLICATION APPLIES TO THEIR PROJECT.

PRINT NAME OF OWNER OR FIRM

COYOTE VALLEY RESEARCH PARK, LLC

DAYTIME TELEPHONE #

(408) 293-9600

ADDRESS

150 ALMADEN BLVD., SUITE 700

CITY

SAN JOSE

STATE

CA

ZIP CODE

95110

OWNER'S SIGNATURE

DATE

6/15/99

PRINT NAME & TITLE

DAVID A. TARAN, MEMBER

PRINT NAME OF OWNER OR FIRM

ROBERT WEYHE

DAYTIME TELEPHONE #

()

ADDRESS

97 WILLOW STREET

CITY

SAN JOSE

STATE

CA

ZIP CODE

95110

OWNER'S SIGNATURE

DATE

PRINT NAME & TITLE

PRINT NAME OF OWNER OR FIRM

DAYTIME TELEPHONE #

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ADDRESS

CITY

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PRINT NAME & TITLE

PRINT NAME OF OWNER OR FIRM

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DATE

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PRINT NAME OF OWNER OR FIRM

DAYTIME TELEPHONE #

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ADDRESS

CITY

STATE

ZIP CODE

OWNER'S SIGNATURE

DATE

PRINT NAME & TITLE

IF THERE ARE ADDITIONAL PROPERTY OWNERS, PLEASE ATTACH SEPARATE COPIES OF THIS PAGE TO PROVIDE THE ABOVE INFORMATION.

NOTICE: THIS APPLICATION IS ACCEPTED BY APPOINTMENT ONLY. CALL 294-PLAN (7526).

AFFIDAVIT OF OWNERSHIP

THE UNDERSIGNED HEREBY DECLARE THAT ITEMS 1 THROUGH 4 ON PAGE 2 OF THIS APPLICATION ARE TRUE AND CORRECT, AND DECLARE THAT THEY UNDERSTAND THAT ITEM 5 ON PAGE 2 OF THIS APPLICATION APPLIES TO THEIR PROJECT.			
PRINT NAME OF OWNER OR FIRM COYOTE VALLEY RESEARCH PARK, LLC		DAYTIME TELEPHONE # (408) 293-9600	
ADDRESS 150 ALMADEN BLVD., SUITE 700	CITY SAN JOSE	STATE CA	ZIP CODE 95110
OWNER'S SIGNATURE		DATE	
PRINT NAME & TITLE			
PRINT NAME OF OWNER OR FIRM ROBERT WEYHE		DAYTIME TELEPHONE # ()	
ADDRESS 97 WILLOW STREET	CITY SAN JOSE	STATE CA	ZIP CODE 95110
OWNER'S SIGNATURE <i>Robert Weyhe</i>		DATE 6/15/99	
PRINT NAME & TITLE <i>Robert Weyhe, owner</i>			
PRINT NAME OF OWNER OR FIRM		DAYTIME TELEPHONE # ()	
ADDRESS	CITY	STATE	ZIP CODE
OWNER'S SIGNATURE		DATE	
PRINT NAME & TITLE			
PRINT NAME OF OWNER OR FIRM		DAYTIME TELEPHONE # ()	
ADDRESS	CITY	STATE	ZIP CODE
OWNER'S SIGNATURE		DATE	
PRINT NAME & TITLE			
PRINT NAME OF OWNER OR FIRM		DAYTIME TELEPHONE # ()	
ADDRESS	CITY	STATE	ZIP CODE
OWNER'S SIGNATURE		DATE	
PRINT NAME & TITLE			
PRINT NAME OF OWNER OR FIRM		DAYTIME TELEPHONE # ()	
ADDRESS	CITY	STATE	ZIP CODE
OWNER'S SIGNATURE		DATE	
PRINT NAME & TITLE			
IF THERE ARE ADDITIONAL PROPERTY OWNERS, PLEASE ATTACH SEPARATE COPIES OF THIS PAGE TO PROVIDE THE ABOVE INFORMATION.			

NOTICE: THIS APPLICATION IS ACCEPTED BY APPOINTMENT ONLY. CALL 294-PLAN (7526).

CONTACT PERSON

That for the purpose of processing and coordination of this application, the following person is my (our) designated representative/contact person:

NAME	DAYTIME TELEPHONE #	FAX #
RANDY LAMB	(408) 278-6866	(408) 278-6863
ADDRESS	CITY	STATE
60 S. MARKET, SUITE 1120	SAN JOSE,	CA
		ZIP CODE
		95113
NAME OF FIRM, IF APPLICABLE		
GIBSON SPENO		

PROJECT DEVELOPER

NAME OF PROJECT DEVELOPER (IF DIFFERENT THAN OWNER)	DAYTIME TELEPHONE #
COYOTE VALLEY RESEARCH PARK, LLC	(408) 293-9600
ADDRESS	CITY
150 ALMADEN BLVD., SUITE 700	SAN JOSE,
	STATE
	CA
	ZIP CODE
	95113
NAME OF FIRM, IF APPLICABLE	
COYOTE VALLEY RESEARCH PARK, LLC.	

ARCHITECT and ENGINEER

NAME OF ARCHITECT	DAYTIME TELEPHONE #
BARRY LUDWIG	(408) 942-8200
ADDRESS	CITY
555 LOS COCHES STREET	MILPITAS,
	STATE
	CA
	ZIP CODE
	95035
NAME OF FIRM, IF APPLICABLE	
DEVCON CONSTRUCTION, INC.	
NAME OF ENGINEER	DAYTIME TELEPHONE #
WILLIAM WAGNER	(408) 487-2200
ADDRESS	CITY
PO BOX 611510	SAN JOSE,
	STATE
	CA
	ZIP CODE
	95161-1510
NAME OF FIRM, IF APPLICABLE	
HMH, INC.	

NOTICE: THIS APPLICATION IS ACCEPTED BY APPOINTMENT ONLY. CALL 294-PLAN (7526).

**Department of Planning, Building and Code Enforcement**

801 North First Street, Room 400
San Jose, CA 95110
(408) 277-4576

TRAFFIC ANALYSIS WORKSHEET**PART I TO BE COMPLETED BY PLANNING STAFF**

FILE #	COUNCIL DISTRICT	PLANNING AREA
--------	------------------	---------------

PART II TO BE COMPLETED BY APPLICANT

LOCATION BOTH SIDES OF SANTA TERESA BLVD., NORTH OF BAILEY AVE. AND SOUTH OF TULARE HILL	
PROJECT DESCRIPTION:(e.g. single-family detached residential, professional offices, etc.) CAMPUS INDUSTRIAL	
NUMBER OF UNITS/SIZE:(e.g. 60 units, 85,000 sq. ft. gross floor area, etc.) 6.6 MILLION SQ. FT. OF CAMPUS INDUSTRIAL	ESTIMATED DATE OF OCCUPANCY:(e.g. Fall 1989)

PART III TO BE COMPLETED BY PUBLIC WORKS STAFF

TRIP GENERATION RATE PER UNIT OR ACRE, ETC.	ADT			
PEAK HOUR FACTOR	PEAK TRIPS			
INBOUND/OUTBOUND SPLIT				
% IN.	% OUT	IN	OUT	
CRITICAL INTERSECTIONS	LEVEL OF SERVICE			
	V/C	EXISTING LOS	DATE	NEW COUNT NEEDED?
1.	AM			
	PM			
2.	AM			
	PM			
3.	AM			
	PM			
4.	AM			
	PM			
5.	AM			
	PM			
6.	AM			
	PM			

SPECIAL COMMENTS

- ☐ TRAFFIC REPORT REQUIRED
- ☐ EXEMPT FROM TRANSPORTATION LEVEL OF SERVICE POLICY
- ☐ ADEQUATE TRAFFIC CAPACITY TO SERVE DEVELOPMENT
- ☐ INSIGNIFICANT TRAFFIC IMPACT
- ☐ NO TRAFFIC IMPACT
- ☐ TRAFFIC CAPACITY TO BE REVIEWED AT SITE DEVELOPMENT STAGE
- ☐ _____

DATE OF REVIEW	SIGNATURE OF REVIEWER
----------------	-----------------------

NOTICE OF PREPARATION
OF A
DRAFT ENVIRONMENTAL IMPACT REPORT
FOR THE PROPOSED
COYOTE VALLEY RESEARCH PARK
PLANNED DEVELOPMENT REZONING

PROJECT APPLICANT: Coyote Valley Research Park LLC

FILE NO: PDCSH 99-06-053

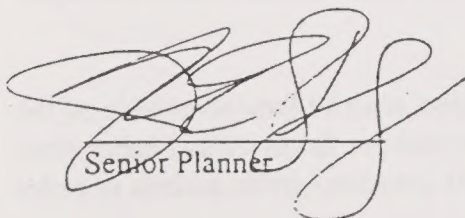
As the Lead Agency, the City of San Jose will prepare an Environmental Impact Report (EIR) for the above-referenced Project and would like your views regarding the scope and content of the environmental information to be addressed in the EIR. This EIR may be used by your agency when considering approvals for this project.

The project description, location, and a brief summary of potential environmental effects are attached.

According to State law, the deadline for your response is 30 days after receipt of this notice; however, we would appreciate an earlier response, if possible. Please identify a contact person, and send your response to:

City of San Jose
Attn: Julie Caporgno
City Hall Annex, Room 400
801 North First Street
San Jose, CA 95110-1795
Phone: (408) 277-4576

James R. Derryberry, Director
Planning, Building and Code Enforcement


Senior Planner

Date: 9/8/99

**NOTICE OF PREPARATION
OF AN ENVIRONMENTAL IMPACT REPORT
FOR THE PROPOSED
COYOTE VALLEY RESEARCH PARK REZONING PROJECT
JULY 1999**

Introduction

The purpose of an Environmental Impact Report (EIR) is to inform the decision-makers and the general public of the environmental effects of a proposed project that an agency may implement or approve. The EIR process is intended to provide information sufficient to evaluate a proposed project and its potential for significant impacts on the environment; to examine methods of reducing adverse environmental impacts; and to consider alternatives to the project.

Location

The project site is located approximately ten miles southeast of downtown San Jose, in North Coyote Valley (see Figure 1, *Regional Map*, and Figure 2, *Vicinity Map*). The site is situated west of U.S. Highway 101 and Coyote Creek and immediately south of Tulare Hill as shown on Figure 2. The site is bounded on the south by Bailey Avenue, the Santa Teresa Hills on the west and north, and the Union Pacific Railroad tracks on the east.

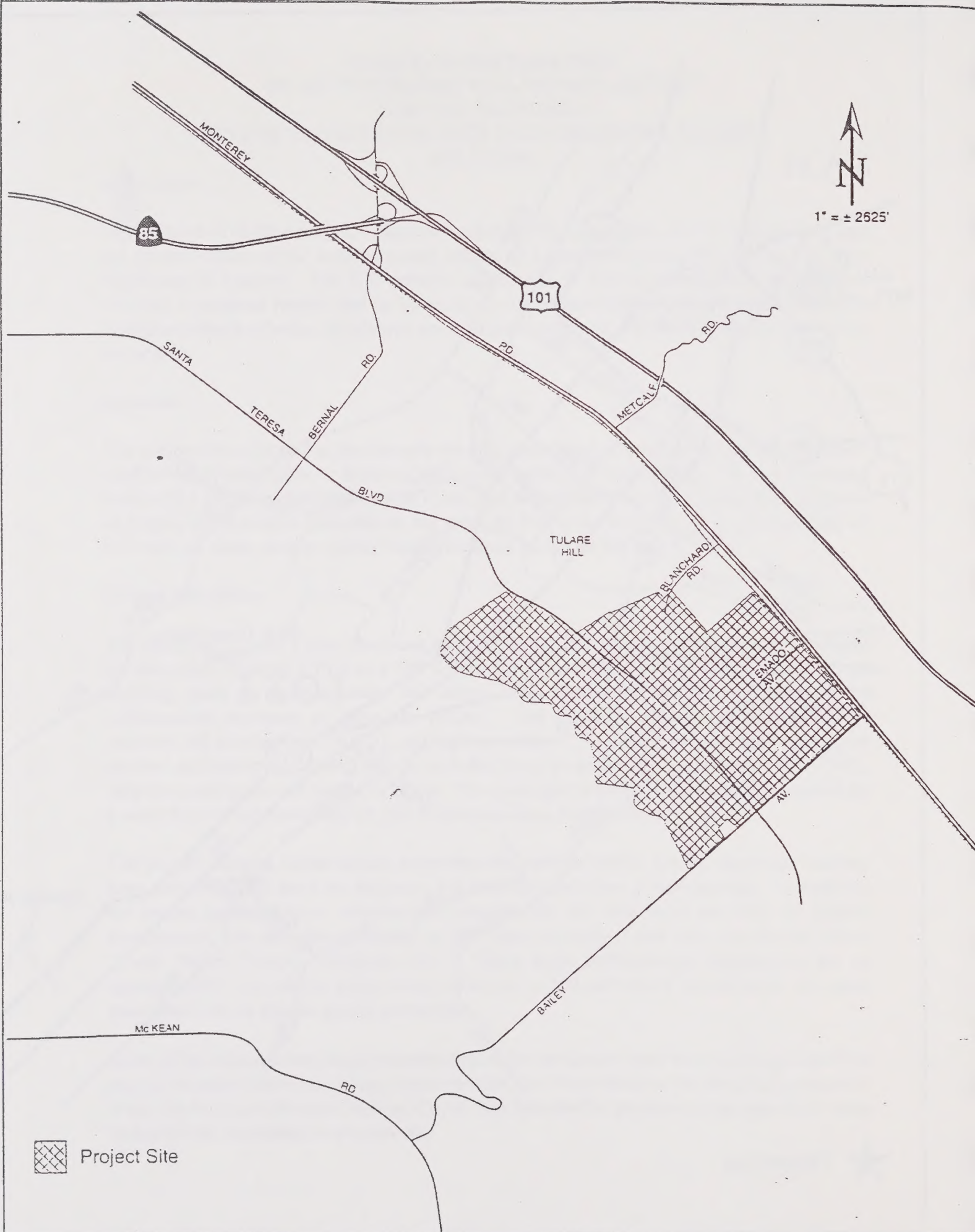
Project Description

The applicant, Coyote Valley Research Partners, LLC, has filed an application for a Planned Development rezoning *A(PD)* on a 688 site for the development of 6.6 million square feet of building space on approximately 385 acres. The remaining acreage will be used for infrastructure necessary to serve the project. The building uses would include office, research and development (R&D), and light assembly. It is proposed that various support services and conveniences will also be included, such as automated teller machines (ATMs), cafeterias, and gyms and locker facilities. The proposed development would be occupied by a work force of approximately 20,000 employees upon full buildout.

The project includes infrastructure improvements such as public streets, storm and sanitary lines, and utilities to serve the proposed 6.6 million square feet of development. In addition, the project proposes three infrastructure components that will serve not only the project development, but also the remainder of the approximately 1,444 acres within the North Coyote Valley Campus Industrial Area. These three infrastructure components are an approximately four million gallon water reservoir, a 269 acre flood control basin and open space area, and an electric power substation.

Some of the infrastructure improvements needed by the project may be located outside of the project boundary such as roadway improvements, the water tank, or the electrical substation. It may be necessary to annex into the City of San Jose and/or prezone certain parcels in order to implement the needed improvements.





VICINITY MAP

FIGURE 2

Roadway Improvements

Bailey Avenue would be widened along the southerly frontage of the site, from approximately 1,000 feet west of the existing Fisher Creek Bridge (near the IBM property line) to approximately 1,000 feet west of Monterey Road, where the City approved Bailey Avenue/Monterey Road/Highway 101 interchange project terminates.

Santa Teresa Boulevard would be widened between Bayliss Drive to Bailey Avenue to provide three lanes in each direction. The existing road grades for Santa Teresa Boulevard north of Fisher Creek are below the existing 100-year water surface elevation. The lowest portion of Santa Teresa Boulevard will be elevated and reconstructed by the project to a minimum of 250 foot in elevation which is above the 100 year water surface.

A portion of the planned Coyote Valley Parkway would be constructed, extending southerly through the project site from the northeast corner of the site just west of Monterey Road, to Bailey Avenue. Coyote Valley Parkway would be constructed as a four to six lane roadway.

An arterial road would be constructed north of Bailey Avenue that would be grade separated over Monterey Road and the Union Pacific railroad tracks with an interchange on the east side of Monterey Road

Flood Control and Drainage

The project proposes a drainage and flood control system that would provide sufficient storm water storage in the northwest corner of the project site to off-set increased runoff from the building and paving surface of the entire future North Coyote Valley campus industrial development. The flood control basin would allow the existing peak flood flow in Fisher Creek to be maintained. The proposed drainage and flood control system consists of a 269-acre flood control basin, bypass channel, and open space area.

The existing Fisher Creek would remain in place in order to avoid impacts to wetlands and the riparian corridor. No major modifications to the existing Fisher Creek channel are proposed although minor modifications would be required for bridge crossings and outfalls.

Water System

A new water supply system is proposed to serve the project and future campus industrial uses within North Coyote Valley. The proposed water supply system consists of construction of an approximately four million-gallon water reservoir or tank, and associated water distribution lines. Water would be supplied to the system by three existing wells and a new standby well located north of Bailey Avenue, west of the Union Pacific Railroad tracks and Monterey Road.

Electric Power

The proposed development would require construction of an electric power substation for distribution of power. Three possible locations for the electric substation will be considered in the EIR. The substation would be constructed by the Pacific Gas and Electric Company (PG&E) on approximately two acres.

POTENTIAL SIGNIFICANT EFFECTS

The EIR will primarily address the following environmental issues related to the rezoning: land use (loss of agricultural land, loss of open space, recreation), transportation and circulation, geology and soils, hydrology and water quality, vegetation and wildlife, air quality, hazardous materials, noise, cultural resources, visual and aesthetics, utilities and service systems, energy, potential for growth inducement (population and housing), project alternatives and cumulative impacts. A brief discussion of these potential impacts is presented below. If, as a result of circulating this Notice of Preparation, other relevant environmental impact categories are identified, such categories will also be analyzed in the EIR.

Land Use

Existing land uses on the site and in the surrounding area will be described. The loss of agricultural land, loss of open space, and whether the project would result in land use compatibility impacts between existing and planned land uses in the area will be examined. The Project's impact on recreation uses in the area will also be included. Feasible mitigation will be identified for significant impacts.

Transportation and Circulation

The EIR will describe existing traffic conditions in the area and in conformance with the City's level of service policy evaluate traffic impacts on the existing transportation system from the proposed development. Feasible mitigation measures will be described for significant impacts. In addition, safety impacts from additional traffic on Bailey Road will be examined and feasible mitigation identified if warranted.

Air Quality

The EIR will evaluate regional and local air quality impacts associated with implementing the proposed project and feasible mitigation measures for identified significant impacts.

Noise

Implementation of the proposed project would introduce urban uses and infrastructure into a primarily rural area. The EIR will examine the noise compatibility of the proposed uses allowed under the proposed rezoning with the existing and proposed uses. Feasible mitigation measures will be identified.

Vegetation and Wildlife

The existing biological resources on the project site will be described. Impacts from the proposed project and infrastructure improvements on sensitive habitat or species will be addressed in the EIR. Feasible mitigation measures to reduce environmental impacts will be identified.

Cultural Resources

The project area is located in an archaeologically sensitive area. Although the site has been previously disturbed by agricultural practices, there is a potential that subsurface prehistoric resources could be present on the site. In addition, several potentially historic homesteads are located within the project area. The EIR will identify impacts to historic and prehistoric resources from implementation of the project. Feasible mitigation measures will be identified.

Utilities and Service Systems

The EIR will examine whether sufficient water, solid waste, sewer and utility systems capacity is available to serve the proposed project. An approximately four million-gallon water reservoir and water distribution system is proposed as part of the project to meet future water needs. In addition, it is expected that a new fire station would need to be constructed to meet future development. Significant impacts from the construction of the water tank and fire station will be addressed in the EIR and feasible mitigation measures will be identified.

Geology and Soils

The EIR will examine seismic hazards associated with weak soils, liquefaction, and the site's proximity to known faults. Feasible mitigation measures to avoid significant impacts will be identified.

Hydrology, Flooding and Water Quality

Portions of the project area are within the 100-year floodplain. Redevelopment of the site under the proposed rezoning could lead to a significant increase in impervious surfaces, and associated flooding and water quality impacts. A flood control basin is proposed as part of the project to ensure that development of the project area does not increase the potential for downstream flooding on Coyote Creek. The EIR will discuss the proposed flood control basin and will examine water quality impacts associated with the proposed project and identify feasible mitigation measures.

Visual and Aesthetics

Due to the rural nature of North Coyote Valley, it is anticipated that development would change the visual character of the area. The EIR will discuss potential visual impacts of the proposed development including a brief description of grading impacts, the proposed water tank and water distribution system, and the PG&E substation including visual simulations. Feasible mitigation measures to reduce visual impacts will be identified.

Hazardous Materials

The site has been in agricultural use and, therefore, may contain residual concentrations of pesticides and herbicides in the soil and ground water. The EIR will provide information regarding any chemicals that may be present that could impact future occupants. Feasible mitigation measures to reduce hazardous materials impacts will be identified.

Use of Energy

The EIR will include information regarding the consumption of energy by the project during construction and from ongoing operational use of energy by future occupants. Feasible measures to reduce energy impacts will be identified.

Alternatives

The EIR will examine alternatives to the proposed project including a "no project" alternative, a reduced scale alternative, and several alternatives to the proposed flood control basin.

Cumulative Impacts

The EIR will examine the effect of the proposed project along with other closely related past, present and reasonably foreseeable projects to determine if the project would lead to cumulative air quality, transportation, loss of agricultural land, loss of open space, loss of habitat, or other cumulatively significant impacts. Feasible mitigation measures will be identified.

Growth Inducing Impacts

The EIR will examine the effect the proposed project will have on inducing growth within the City of San Jose and surrounding communities.

Significant Irreversible Changes

The EIR will examine any significant irreversible changes to the environment that could occur should the project be implemented.

Significant Impacts Which Cannot be Avoided

Any impacts which cannot be reduced to a less than significant level with mitigation will be identified.

County of Santa Clara

Environmental Resources Agency
Parks and Recreation Department

78 Garden Hill Drive
San Jose, California 95032-7669
(408) 358-3741 FAX 358-3245
Reservations (408) 358-3751 TDD (408) 356-7146

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JUL 13 1999

CITY OF SAN JOSE
PLANNING DEPARTMENT



July 8, 1999

Jeff Roche
City of San Jose
Planning Department
801 North First Street, Rm. 400
San Jose, CA 95110

Subject: Planned Development Rezoning for Coyote Valley Research Park, LLC

Dear Mr. Roche:

This letter is in response to the subject proposed development within the North Coyote Valley Campus Industrial Area, more commonly called the Cisco project. I think it is important remind the City of that a connected trail system in the project area is part of the County's General Plan, the City's General Plan and the North Coyote Valley Campus Industrial Area Master Plan. Of utmost importance is the recognition of the Bay Area Ridge Trail and the Juan Bautista deAnza National Historic Trail, shown in the County's General Plan as R1-A and R5-C respectively. The County's General Plan identifies the Ridge Trail and Anza Trail to be in the same alignment within the Bailey Avenue right-of-way (ROW), with an on-street bicycle route and a parallel paved multi-use trail within the ROW.

We understand that the City is addressing the Cisco campus planning separate from the related Bailey Avenue extension project. In addition, we are aware that the City is undergoing a revision to the North Coyote Valley Campus Industrial Area Master Plan. However, our comments related to the subject project have broader application to the larger picture of trail planning in the master plan area. It is critical that the City evaluate the trail needs not only from the perspective of what should be required from the project applicant, but also from what is needed to completely implement the Ridge Trail and Anza Trail within the master plan zone.

The Parks Department's comments are directed towards the completion of improvements for the Ridge Trail and Anza Trail. At a minimum, the project should include:

- An on-street bicycle route on both sides of Bailey Avenue. For the record, the bike route should connect from both sides of Bailey Avenue into the existing Coyote Creek Trail (east side of Coyote Creek).

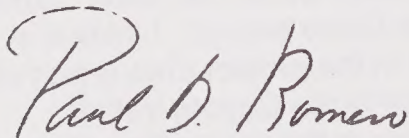


Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., S. Joseph Simunan
County Executive: Richard Wittenberg

- A paved, multi-use trail with an unpaved shoulder for equestrian use between the campus and the Coyote Creek Trail. This trail should be grade separated (meaning at road intersections that it would go under or over the street) to allow for safe, convenient access. Although not all of this connection would be within the Cisco campus, the applicant and City should identify the most logical route for the link, taking into consideration the complete connection between IBM and Coyote Creek. The County's General Plan shows this trail within the Bailey Avenue ROW. We understand there may be some physical constraints associated with the alignment due to the complicated siting of the Bailey/Monterey Highway interchange. There may be other opportunities for creating this connection along Fisher Creek as shown in the North Coyote Valley Campus Industrial Master. The County is open to exploring other solutions that provide the regional trail connection; however, we are adamant that a viable solution must be found.

We welcome the opportunity to partner with the City and project applicant to find answers to the issues posed in this letter. I hope by taking a proactive approach, we can complete a trail link that is of tremendous regional and national significance.

Sincerely,



Paul D. Romero
Park Director & Acting ERA Director

cc: Jenny Derry, Aide to Supervisor Don Gage
Clifford Janoff, BARTC Executive Director
Meredith Kaplan, NPS
Mark Linder, CSJ Park Director
Joel Slavitt, CSJ Park Planner
Timm Borden, CSJ Senior Civil Engineer
Lisa Killough, Planning & Development Manager
Mark Frederick, Capital Project Manager II

s:\k\develop\private\cisco

CITY OF SAN JOSE - MEMORANDUM

TO: JAMES R. DERRYBERRY
DIRECTOR OF PLANNING

FROM: OFFICER JEFFREY P. RICKEL
CPTED PROGRAM

PROJECT MANAGER: Jeff Roche

ITEM #: 2

DATE: July 2, 1999

PLANNING FILE #: PDCSH99-06-053

LOCATION: Both sides of Santa Teresa Blvd., northerly of Bailey Ave. and Southerly of Tulare Hill.
DESCRIPTION: Planned Development Rezoning of a 688 gross acre site to allow 6.6 million square feet of campus industrial and research and development space.

APPROVED:

DATE:

The following list of CPTED (Crime Prevention Through Environmental Design) principles should not be considered the final SJPD comment on the proposed project. Rather, it should be used as an architectural and landscape design guideline. Future comments may be submitted at a later stage of the permit process.

SECURITY SYSTEMS:

- Silent or audible alarm system shall be installed
- Comprehensive security alarm systems should be provided for the following:
 - Perimeter building and access route protection
 - High valued storage areas
 - Interior building door to shipping and receiving area
 - Perimeter fence and security gating
- CCTV security cameras are recommended, covering the following areas:
 - Lobby entrances
 - Building Perimeter
 - Shipping and receiving areas
 - Parking lot/structure
 - Exterior entrance
 - Stairwells
 - Interior hallways

ADDRESSING:

- Address numbers shall be illuminated during the hours of darkness and positioned so as to be readily readable from the street. Numbers that are a minimum height of 12" recommended.
- Businesses with rear alley entrance doors shall be numbered with the same address numbers or suite number. Numbers that are a minimum height of 4" recommended.
- Roof top addressing (for the police helicopter) shall be applied in a contrasting color, with a minimum size of 1' by 4'.
- Industrial and commercial buildings shall have doors clearly marked with numbers corresponding to the appropriate alarm zone.
- Each distinct unit within the building shall have its address displayed on or directly above both the front and rear doors.

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CITY OF SAN JOSE
PLANNING DEPARTMENT

DOORS:

- Adequate security hardware, such as dead bolt locks, should be installed. All glass doors shall be secured with a dead bolt.
- Dead bolt locks shall be of the type whose dead bolt and deadlocking latch can be retracted by a single action of the inside door knob/lever/turnpiece.
- Overhead roll-up doors shall be secured from the inside by a cylinder lock or padlock which cannot be defeated from outside the door.

WINDOWS:

- Bullet resistant glass should be installed at attendant's kiosk.
- Louvered windows shall not be used.
- Large display-type windows, and any window accessible from the side and rear, but not visible from the street, shall consist of rated burglary-resistant glazing or its equivalent. The "lock wrap" type that attaches to the window frame is recommended.

ROOF TOPS AND OPENINGS:

- One of the following shall be utilized on all skylights:
 - Rated burglary-resistant glass or acrylic material
 - Iron bars of at least one half-inch diameter, or flat steel bars of at least one quarter-inch width, spaced no more than five inches apart under the skylight and securely fastened
 - Grill of at least one eighth-inch steel and two-inch mesh
- All hatchway openings on the roof of any building shall be secured as follows: If the hatchway is wooden, it shall be covered on the outside with at least 16 gage sheet steel or its equivalent, attached in a manner making removal difficult. The hatchway shall be secured from the inside with a slide bar or slide bolts. Only a crossbar or padlock provided by the fire marshal shall be used. Outside pin-type hinges on all hatchway openings shall have non-removable pins.
- Exterior rooftop ladders should be eliminated or incorporated into the interior design.
- All air duct or air vent openings exceeding 8" by 12" on the rooftop or exterior walls of any building shall be secured by means of:
 - Iron bars of at least one half-inch diameter, or flat steel bars of at least one quarter-inch width, spaced no more than five inches and securely fastened
 - Grill of at least one eighth-inch steel and two-inch mesh
 - If the barrier is on the outside, it shall be secured with galvanized rounded-head, flush bolts of at least 3/8" diameter.

LIGHTING:

- Monument signs shall be well lighted during hours of darkness.
- Interior night-lights shall be used during hours of darkness when premises is closed for business.
- Adequate lighting of parking lots and associated car ports, driveways, circulation areas, aisles, passageways, recesses, and grounds contiguous to buildings shall be provided with Low pressure sodium lighting with sufficient wattage to provide adequate illumination to make clearly visible the presence of any person on or about the premises during the hours of darkness and provide a safe, secure environment for all persons, property, and vehicles on site.

- All exterior doors shall have their own light source which will adequately illuminate entry/exit areas at all hours in order to:
 - Make any person on the premises clearly visible.
 - Provide adequate illumination for persons entering and exiting the building.

LANDSCAPING:

- Landscaping shall be of the type and situated in locations to maximize observation while providing the desired degree of aesthetics. Security planting materials are encouraged along fence and property lines and under vulnerable windows. Landscaping shall not conceal doors or windows from view, obstruct visibility of the parking lot from the street, nor provide access to the roof.

LINE OF SIGHT/NATURAL SURVEILLANCE:

- Stairwells and elevator lobbies should be of open design whenever structurally possible.
- It is highly desirable to design an elevator shaft and cab to be transparent, making occupants of the cab visible from the outside.
- Convex mirrors should be installed in elevator cabs and at stairwell landings.
- Trash enclosures should be located at the perimeter of the parking lot, not adjacent to buildings.
- Other line of sight obstructions (including recessed doorways, alcoves, etc.) should be avoided on building exterior walls, and interior hallways.

MANAGEMENT/PARKING LOT:

- No Trespassing/Loitering, SJMC 10.20.140 (A) and 10.20.140 (D) signs shall be posted at the entrances of parking lots and other appropriate places. Signs must be at least 2'x1' in overall size, with white background and black 2" lettering.
- All entrances to parking areas shall be posted with appropriate signs per 22658(a) CVC, to assist in removal of vehicles at the property owners/managers request.
- Pedestrian and vehicular access control should be utilized.
- Compact parking spaces shall be clearly marked on the pavement.
- Specially marked parking spaces for company Presidents/CEO's, etc., should be eliminated.

FENCING/BARRIERS:

- Whenever possible, open fencing design such as wrought iron or chain-link should be utilized in order to maximize natural surveillance while establishing territoriality.
- Other barrier considerations include:
 - Block walls
 - Decorative cement planters
 - Access control to high valued storage areas
 - Locked cages, rooms and safes
 - Shipping and receiving door screens
 - Bullet resistant enclosures with pass through for pick up and delivery.
 - Interior man trap enclosures to secure and separate shipping and receiving areas.

MISCELLANEOUS:

- Stairwell landings should allow for a sixty-inch turning radius for use by the police explosives robot.
- File Emergency Notification Form 200-14 with the Police Dept.

Jeffrey P. Rickel #3008

Officer Jeffrey P. Rickel #3008
Crime Prevention Unit
Environmental Design Detail

CITY OF SAN JOSE — MEMORANDUM

TO: JEFF ROCHE
DEPARTMENT OF PLANNING AND BUILDING
SUBJECT: PLANNING DEPT. FILE NO. PDCSH99-06-053
(REF: PDSH98-02-009, -010, & PT98-04-056)

FROM: Patrick Chew, FPE
Fire Department
DATE: July 2, 1999

APPROVED

DATE

LOCATION: Both side of Santa Teresa Blvd., northerly of Bailey Ave. & southerly of Tulare Hill

ADDRESS: Coyote Valley Research Park

DESCRIPTION: PD Rezoning to allow 6.6 million sq. ft. of campus industrial & research & development space

These comments are based on the following information:

- Site fire flow requirement: 4,500 G.P.M.
- Average hydrant(s) spacing: 250 feet - Subject to Fire Department approval
- Comply with comments from the Building/Fire Departments at the plan review stage.
- Fire Department comments to Planning Department File No. PD98-02-009 apply to this project.

• **THE FOLLOWING CORRECTIONS SHALL APPLY TO THE SUBJECT APPLICATION:**

1. The development of the above project will initiate the need for a new fire station and staffing for a minimum of an engine and truck company as determined by the Fire Department. It is imperative that discussion with the applicant begins immediately in determining the location, staffing, and design of this facility with all City officials involved.
2. The development of the above project is at least 7 minutes from Engine 27 the first responding engine company and approximately 12 minutes from Engine 17 the second responding company. Both engine companies are beyond the acceptable travel time of four and six minutes for first and second due engine companies respectively as set forth by the San Jose Fire Department.

- **THE FOLLOWING CORRECTIONS SHALL APPLY TO THE SUBJECT APPLICATION:**
(Continued)

PLANNING DEPT. FILE NO. PDCSH99-06-053

2. (Continued)

Also, this does not address our Department's increasing workload by our station companies under existing (staffing, equipment, etc.). Currently, both stations, as well as Engine and Truck 18 are not meeting the Fire Department's acceptable level of travel time due to the increased development within their districts. The undetermined mitigating factor(s) noted shall be reviewed by the applicant and the San Jose Fire Department. Any change(s) in street patterns or additional growth in the community will sufficiently impact the Fire Department's ability to respond accordingly.

3. The needed fire flow noted above shall be provided from a minimum of 5 hydrants and shall be spaced apart on average 250 feet from the proposed project. Fire flow may be reduced upon construction of a four-hour wall, without openings, as per the adopted fire code. Construction of the area separation wall(s) is subject to review by the Fire Department.
4. All public water lines shall be installed on both sides of the public street(s) and looped subject to the approval of the Fire Department. All water main distribution lines shall be reviewed and approved by the San Jose Fire Department's Bureau of Fire Prevention. All alternate means of design are subject to the approval of the Fire Department.
5. Several on-site fire hydrants shall be required based on the Uniform Fire Code.
6. All private fire hydrants shall not be interconnected to the automatic fire sprinkler system(s). All water main distribution lines shall be reviewed and approved by the San Jose Fire Department's Bureau of Fire Prevention Engineering staff.
7. An installation of an automatic fire extinguishing system shall comply with all of the requirements as per the adopted Fire Code. Submit automatic fire extinguishing system plans to the San Jose Fire Department's Bureau of Fire Prevention for review and approval before installing the system. A separate inspection will be required before the final fire inspection can be scheduled. Call the Bureau of Fire Prevention's Fire Protection Systems Section at (408) 277-5357 for more information.

• **THE FOLLOWING CORRECTIONS SHALL APPLY TO THE SUBJECT APPLICATION:**
(Continued)

8. A fire alarm system shall be installed in accordance with the Fire and Building Codes and all the other applicable standards. Plans shall be

PLANNING DEPT. FILE NO. PDCSH99-06-053

submitted to the San Jose Fire Department at Four North Second Street, Suite 1100, San Jose, California 95113-1305.

9. If the kitchen cooking equipment used in the scope of this project creates grease laden vapors, an automatic fire extinguishing system shall be required in the grease hood and duct. Contact the San Jose Fire Department's Bureau of Fire Prevention (Fire Protection Systems Section) at (408) 277-5357 for permit and information.
10. All occupancies exceeding four or more stories in height shall be provided with Class 1 manual wet standpipe as per the Fire Code.
11. The Hazardous Materials process can be lengthy and complex. The applicant should contact the Hazardous Materials Division at (408) 277-4659 as soon as possible to initiate the process.

Use or storage of hazardous materials, liquids, gases and/or chemicals will be subject to meeting the requirements of the Hazardous Materials Storage Ordinance, the Toxic Gas Ordinance, the applicable sections of the San Jose Fire Code, and the National Fire Codes. Submit names and amount of any hazardous materials, if they are to be stored or used, to the Bureau of Fire Prevention for review and approval.

12. All interior ingress and egress median dividers shall be recessed a minimum of 20 feet for emergency vehicle accessibility per the adopted Fire Code.
13. All exterior structures shall be within 150 feet from an approved emergency vehicle access road as per the Fire Code. All alternate means of access shall be approved by the Fire Department.
14. Approved access road(s) and hydrant(s) shall be provided once wood framing is available at site or provide an alternate means of water suppression subject to the approval of the Fire Department. Obtain permit and pay applicable fees prior to the installation. Contact the San Jose Fire Department's Fire Protection Systems Section at (408) 277-5357.
15. All Fire Department access roads, water mains, and fire hydrants shall be installed and operational during construction in accordance with Article 87 of the Fire Code and all other applicable standards.

• **THE FOLLOWING CORRECTIONS SHALL APPLY TO THE SUBJECT APPLICATION:**
(Continued)

16. In determining the occupancy and occupant load at the above location, all portions of the building shall be presumed to be occupied at the same time be in accordance with the provisions of the adopted Building and Fire Codes.

PLANNING DEPT. FILE NO. PDCSH99-06-053

- 17. Provide detailed architectural plan(s) to include but not limited to specific use, construction type, and location of property with respect to property line(s) as per the provision of the Building and Fire Codes.
- 18. Due to the complexity of this project, it is recommended that a meeting be arranged with the applicant(s) and the Fire Department and the municipal water authority.
- When submitting construction plans to the Building Department, **they shall include Planning's Development Permit File Number** printed on the construction plans.
- Provide two sets of reduced plans to the Fire Department once the above application has been approved by the Planning Department.
- **THE FOLLOWING GENERAL REQUIREMENTS ARE APPLICABLE TO THE SUBJECT APPLICATION:**
- Facilities for emergency vehicle access:
 - A. Roads and/or driveways shall have a minimum clear width of 20 feet. Uniform Fire Code, Section 902.2.2.
 - B. Minimum turning radius shall be 30 feet inside and 50 feet outside.
 - C. Minimum Vertical clearance shall be 14 feet.
 - D. Lock boxes or non-case hardened locks are required at gated entries. Lock boxes are required for buildings four or more stories and are recommended for buildings over 10,000 square feet.
 - E. Fire lanes shall be suitably marked with standard signs, painted curbs, and/or other markers as approved or authorized for use by the Chief. Fire lane markings shall be indicated on plans submitted through the building permit process for review and approval by the Fire Department.
- Provide a manual means of opening gate if there is a power failure.
- Public (off-site) and private (on-site) fire hydrants shall be provided. All hydrants must meet the specifications for the City of San Jose's Fire Department. For hydrant locations please contact the San Jose Fire Department's Fire Protection Engineering Division at (408) 277-5357.
- All existing and new fire hydrants shall be at least 10 feet from all driveways.
- A lighted directory showing addresses of all buildings shall be provided at the main entrance to the site.
- A street number shall be displayed on the primary building on each parcel.

PLANNING DEPT. FILE NO. PDCSH99-06-053

- Street numbers shall be visible day and night from the nearest street, either by means of illumination or by the use of reflective materials.
- We reserve the right to make comments at a future date.

If you have any questions regarding these items, please contact me at (408) 277-5357.

BY: PATRICK CHEW, FPE
Bureau of Fire Prevention

site memo

CITY OF SAN JOSE - MEMORANDUM

TO: Jeff Roche
Planning, Building and Code
Enforcement Department (PBCED)

FROM: Raji Lukkoor,
Environmental Services
Department (ESD)

SUBJECT: RESPONSE TO DEVELOPMENT
APPLICATION

DATE: July 2, 1999

APPROVED:

John Michael

DATE:

07.07.99

PLANNING NO.:	PDCSH99-06-053
DESCRIPTION:	Planned Development Rezoning of a 688 gross acre site to allow 6.6 million sq. ft. of campus industrial and research and development space
LOCATION:	Both sides of Santa Teresa Boulevard, northerly of Bailey Avenue and southerly of Tulare Hill

ESD received the subject project and submits the following comments and recommendations:

San Jose/Santa Clara Water Pollution Control Plant (WPCP)

In accordance with the Regional Board¹ Order 98-052, the WPCP must reduce and maintain average dry weather effluent flow (ADWEP) below 120 million gallons per day (mgd) and strive to maintain permitted industrial copper and nickel loading to the Plant at 1997 levels.

Industrial/Commercial

The proposed industrial development is expected to contribute and add wastewater flow to the WPCP. We recommend defining the (*industrial/commercial*) activities planned for the future development and estimating the generated wastewater flow to the WPCP.

All new industrial/commercial facilities may be subject to a Flow Audit Study by Watershed Protection Division staff regarding any potential water use, recycling and

¹ San Francisco Bay Regional Water Quality Control Board

reuse projects that will divert flow from the sanitary sewer. The building occupants should contact the Water Protection Division at 945-3000 to discuss an evaluation.

Watershed Protection

We recommend defining the (R&D, Industrial) activities planned for the facility.

The proposed development must conform to the City's industrial waste discharge regulations². Industrial process flow and/or non-domestic wastewater discharge into the sanitary sewer system will require Watershed Protection Division staff to review and approve the final plans. A wastewater discharge permit may be required. Implementation of Reasonable Control Measures (RCMs) and Best Management Practices (BMPs) adopted by the City for specific industry groups may also be required.

The proposed development might be subject to a Flow Audit Study regarding any potential water use, recycling and/or reuse projects that will divert flow from the sanitary sewer. Industrial wastewater dischargers will be required to maximize recycling and minimize wastewater discharge to the sewer system. The developer should contact the Watershed Protection Division at 945-3000 to discuss the study.

South Bay Water Recycling (SBWR)

The proposed development is required to use recycled water for all non-potable uses within the development where technically feasible, including but not limited to fire, irrigation, industrial, cooling water, indoor toilet and urinal flushing and process water.

The demands created by the construction of the proposed development will cause significant impacts to the operation of the existing recycled water system as well as the San Jose/Santa Clara Water Pollution Control Plant. Mitigation for these impacts shall include the following:

- The proposed development is required to design and construct recycled water pipelines along all of the streets within the development, sized appropriately to serve the required demands of the development.
- The proposed development is required to design and construct transmission pipelines along Bailey Avenue, Santa Teresa Blvd and the eastern frontage of their development. These transmission pipelines are to be sized to the satisfaction of Program Director of South Bay Water Recycling (SBWR). The design of all facilities to be constructed by the proposed development should be coordinated with SBWR early in the design stage.

² In accordance with Ordinance No. 24800; San Jose Municipal Code, Chapter 15.14 - Industrial Waste Discharge Regulations, November 1995.

- The proposed development will likely contain over 10,000 ft² of landscaping. Thus, the proposed development must design and construct their irrigation facilities to receive recycled water, and be designed and constructed to the satisfaction of the Director of Planning and the State Department of Health Services (DOHS). A Landscape Documentation Package³ must also be submitted to and approved by the City of San Jose.
- It is likely that the site will require the construction of a new storage and/or pumping facility. The proposed development shall determine their total demand for all nonpotable uses, and determine the storage requirements for these uses. Any storage should be suitable to serve the uninterrupted needs of the property for up to three days. Any required pumping facilities shall be designed, constructed, operated and maintained by the proposed development. This evaluation shall be coordinated with SBWR to determine what additional facilities are required to serve the development.

The design of all new facilities should comply with the SBWR Standard Details and Specifications, as well as the Rules and Regulations. Questions regarding compliance with these requirements should be directed to Curtis Lam at (408) 945-5439.

Water Efficiency

Basic

All new developments must include water conservation elements⁴ for plumbing fixtures, including toilets which use no more than 1.6 gallons of water per flush and urinals which use no more than 1 gallon of water per flush. All new developments must also comply with the City's water efficiency standards⁵ for new and rehabilitated landscaping. Any owner of property having a landscaped area of one acre or more, including business parks, must have a landscape irrigation audit⁶ of the property performed every 5 years. A copy of the *landscape and irrigation guidelines* can be obtained from the San Jose Planning Department at (408) 277-4576.

ITAP

The applicant can benefit from the Irrigation Technical Assistance Program (ITAP), sponsored by the Santa Clara Valley Water District (SCVWD). A properly designed, high-quality and water efficient irrigation system minimizes maintenance costs and water bills. ITAP provides free expert irrigation plan and landscape design review for landscaping projects over one acre in size.

³ In accordance with the San Jose Municipal Code, Chapter 15.10.205

⁴ In accordance with of the CA Uniform Plumbing Code, Section 910; and the San Jose Municipal Code, Chapter 17.56

⁵ In accordance with the San Jose Municipal Code, Chapter 15.11

⁶ In accordance with the San Jose Municipal Code, Chapter 15.11.126

For further details, contact Hossein Ashktorab, ITAP Program Manager, at (408) 265-2607.

Cooling Systems

Cooling towers, evaporative coolers, and once-through cooling are three major categories of water-cooling use. Air-cooled systems perform as effectively as water-cooled systems, but use energy less efficiently. Evaporative coolers should be installed with pumps to recirculate cooling water. Cooling towers require regular maintenance, including replacement of chemical agents, cleaning, and mechanical adjustments. When selecting a service provider for a re-circulating water-cooled system, request that the system be chemical- and water-efficient. Consider alternative physical and chemical cooling water treatment means that will minimize the amount of "bleed off", or lost process water, occurring during each re-circulation of the cooling system.

New cooling system owners assume the burden of meeting the City's flow discharge limits, which may become more stringent in the future. Plan ahead by evaluating the use of reclaimed water in your cooling system.

Integrated Waste Management (IWM)

Commercial/Industrial/Institutional Buildings

1. The City of San Jose must reduce⁷ the amount of waste going to landfill by 50 percent by the year 2000.
2. The Integrated Waste Management Division recommends the recycling of scrap construction and demolition material instead of disposing of it in a landfill. There is extensive information available regarding construction waste recycling, and an infrastructure exists within San Jose to accommodate recycling efforts. Integrated Waste Management staff at 277-5533 can provide assistance on how to recycle construction and demolition debris from the project, including information on which haulers and processors are available to use.
3. The facility must have garbage container space⁸, which requires businesses to have garbage service. Also, the proposed commercial buildings must follow the requirements for recycling container space⁹.

It is recommended that recycled content building material is used to the highest extent possible. The City is in the process of developing recommendations for green buildings and the use of recycled content materials. If you are interested in participating in this

⁷ In accordance with the California Integrated Waste Management Act (AB939)

⁸ In accordance with the San Jose Municipal Code, section 9.10.1380

⁹ In accordance with the California Public Resources Code, Chapter 18

process or obtaining more information on recycled content building materials, please call Mary Tucker in the Policy and Planning division at (408) 277-5533.

Energy Efficiency

Large Offices

The developer is recommended to submit project construction plans to the City's Building Division that exceed the energy efficiency requirements of Title 24 by 10% or more, provided that the payback period for energy efficiency upgrades could be accomplished within 3 years or less.

San Jose's 2020 General Plan outlines the city energy policy as follows:

The energy efficiency of proposed new development should be considered when land use and development review decisions are made. The City's design techniques include provisions for solar access, for siting structures to maximize natural heating and cooling, and for landscaping to aid passive cooling protection from prevailing winds and maximum year-round solar access.

In addition, the City's Sustainable City Strategy includes the energy goal of conserving 10% of the energy projected to be used by the year 2000. Implementing energy efficiency measures can both benefit the environment and have a significant financial return.

The following recommendations apply specifically to large office construction:

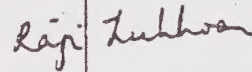
- Orient building with the majority of glazed surfaces facing north and south
- Reduce glazing area to the minimum necessary for the building function or to achieve optimum daylighting
- Locate the majority of glazing on the north and east building facades
- Design window glazing for daylighting and use automatic daylighting controls
- Replace standard T-12 F40 34-watt energy saving lamps with F032 (F32 t-8 or "Octron") lamps and matching 265 ma energy-saving ballast
- Instead of 4-lamp lens troffer, use 3-lamp lens troffer with polished aluminum or silver film laminate reflector; or use high performance 3-lamp parabolic troffer
- Instead of incandescent downlights, use compact fluorescent downlights
- Instead of decorative incandescent fixtures, use decorative HID or compact fluorescent fixtures
- Use 2-lamp parabolic luminaires instead of 3-lamp luminaires. Change spacing from 80 ft² to 64 ft². Although the average lighting level is lower, the lighting is much more uniform
- Direct digital controls

- Fan-powered VAV boxes in lieu of reheat boxes
- Multiple steps of compressor unloading on direct expansion VAV systems
- Primary water temperature reset

For further information please contact Dan Lieberman, Energy Efficiency Project Coordinator, at (408) 277-5533.

Should you have any questions regarding this response, please call me at 945-3009.

Sincerely,



Raji Lukkoor

CITY OF SAN JOSÉ - MEMORANDUM

TO: Jeff Roche
Planning

FROM: Carla Ruigh
PRNS

SUBJECT: PDCSH99-06-053

DATE: July 1, 1999

APPROVED:

DATE:

This memo is to provide comments to the proposed planned development zoning for the Cisco Systems campus in North Coyote Valley. The following is a list of comments and issues that need to be addressed:

- A development agreement between the project applicant and the City should be required to ensure that the public facilities and services, as outlined in the North Coyote Valley Campus Industrial Area Master Plan, can be implemented.
- The City General Plan designated Coyote Creek, Fisher Creek and Ridge Trails are all in the immediate vicinity of the project site. The dedication and development of multi-use trails, in conformance with the North Coyote Valley Campus Industrial Area Master Plan, should be required as part of a development agreement for this project. The following are specific improvements that should be provided:

Ridge Trail

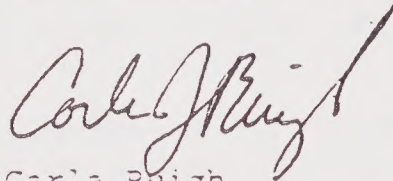
- Class I bicycle path along Bailey Avenue within arterial landscape setback areas.
- Trail connection from both sides of the Bailey Avenue bridge crossing to the existing Coyote Creek Trail on the east side of Coyote Creek.
- Designation and construction of an equestrian connection from the foothills of the Santa Cruz Mountains to the Coyote Creek Park Chain.

Fisher Creek

- Construction of pedestrian, equestrian and bicycle paths along Fisher Creek throughout its length in North Coyote Valley.
- Connection from the General Plan designated Fisher Creek Trail Corridor to the Coyote Creek Park Chain via a crossing of the Union Pacific Rail Line and Monterey Highway
- Updated information and coordination with the Santa Clara Valley Water District is needed regarding planned flood control improvements along Fisher Creek prior to a final

determination of trail alignments along it.

- The opportunity to create a new public recreation facility with a planned flood detention area (approx. 235 acres) between Fisher Creek and IBM private open space lands should be explored. Further information regarding the function and ownership of this facility is needed to determine the viability of this facility for recreation purposes. The potential may also exist to provide a trail connection from Santa Teresa County Park to the Fisher Creek Trail Corridor, via IBM open space lands and the flood detention area, as an alternate cross valley Ridge Trail access.



Carla Ruigh
Park Planning Manager

CR:JS

cc: M. Linder, PRNS
J. Norman, PRNS
T. Borden, D.S.
H. Sum, D.S.
A. Nakagawara, A/E
J. Salvano, A/E

RECEIVED

JUL 02 1999

CITY OF SAN JOSE
PLANNING DEPARTMENT



CITY OF SAN JOSÉ, CALIFORNIA

DEPARTMENT OF PLANNING, BUILDING AND CODE ENFORCEMENT
801 NORTH FIRST STREET
SAN JOSÉ, CALIFORNIA 95110-1795

JAMES R. DERRYBERRY
DIRECTOR

June 24, 1999

Mr. David Taran, Member
Coyote Valley Research Park, LLC
150 Almaden Boulevard, Suite 700
San José, CA 95113

Dear Mr. Taran:

RE: File No. PDCSH99-06-053

I want to thank you for your recent application for development of approximately 6,600,000 square feet of Campus Industrial uses in San José. Your project is very important to the City, and I have recommended that the City Manager designate it Special Handling. As you may know, the Special Handling process was established by the San José City Council to ensure thorough and timely processing of those projects most important to the City, with special emphasis on problem solving at the highest levels of the City Administration. Toward this end, all City department heads will be notified of the Special Handling designation given your project and will assign appropriate staff to work with us on this project.

I have assigned Jeff Roche of my staff as Project Manager for your project. Jeff is experienced and specially trained in guiding projects through the various processes, both in this department and through other City departments. Jeff will be your principal contact during the entitlement process and will work closely with the Principal Planner and Deputy Director, as well as myself, to resolve issues that may arise in the review of your application. Jeff will be in contact with you shortly to review the details and timeline for processing your project.

Once again, thank you for doing business with the City of San José. I look forward to a very productive relationship.

Sincerely,

James R. Derryberry, Director of
Planning, Building and Code Enforcement

PDC99-06-053.SHL/ZoningFolder/JR:mv207-02

LINDA V. ELKIND
14 Hawk View
Portola Valley, CA 94028

June 30, 1999

Attention: Jeff Roche

RE: City File NO. PDC99-06-053

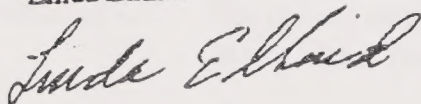
Thank you for the opportunity to comment on the Planned Development Rezoning of this 688 acre site. As a representative of the Santa Clara County Creek Coalition, I am particularly interested in preserving the creek corridors within and adjacent to this property. I understand that during rainy seasons much of this property is underwater or that the level of the ground water is close to the surface. Furthermore, Fisher Creek drains some of the land.

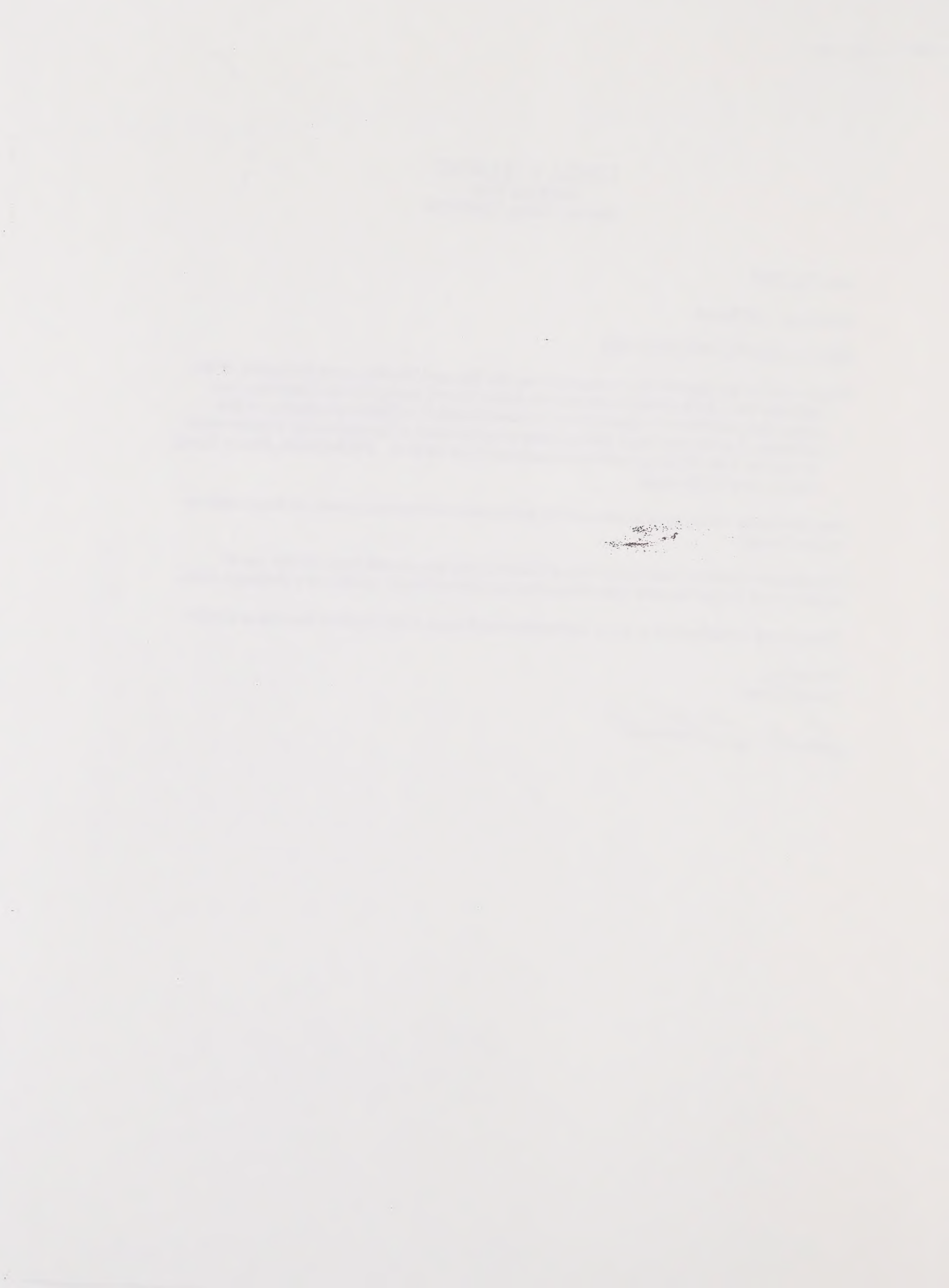
Has there been an biologic assessment of the habitat and species present or dependent on Fisher Creek?

I recommend that the biotic potential of Fisher Creek be enhanced and by the use of setbacks and design become a landscape feature rather than be treated as a drainage ditch.

Please keep me informed as more information and more detailed plans become available.

Sincerely,
Linda Elkind





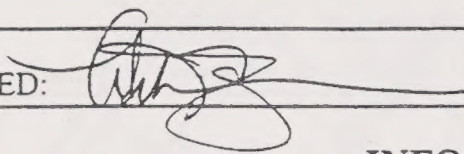
CITY OF SAN JOSÉ- MEMORANDUM

TO: Debra Figone
Acting City Manager

FROM: James R. Derryberry

SUBJECT: SPECIAL HANDLING STATUS
FOR COYOTE VALLEY
RESEARCH PARK FILE NO. PDC99-06-053

DATE: June 23, 1999

APPROVED: 

DATE: 6/24/99

INFORMATION

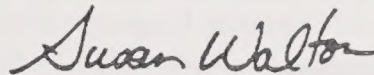
COUNCIL DISTRICT: 2

A Planned Development Rezoning Permit application was filed on June 17, 1999, for the Coyote Valley Research Park located at both sides of Santa Teresa Boulevard, northerly of Bailey Avenue (see attached map). The proposed project is for approximately 6,600,000 square feet of campus industrial uses.

This proposal meets the following criteria and, therefore, warrants Special Handling.

- Criterion #1 The project will be user built or built to suit for the user.
- Criterion #2 The project will generate and/or retain at least 500 jobs in San José. (The number of jobs this project will generate is approximately 20,000).
- Criterion #3 The project will directly benefit a substantial portion of San José's citizens and/or have a highly favorable impact on the City's image.
- a. The project is structured to provide specific socioeconomic or employment impacts.
 - b. The project provides important support for existing development.

Please advise if you agree. I request that the appropriate City departments also confer Special Handling status on this project. Jeff Roche of my staff is the Project Manager for this application. Inquiries regarding the project should be directed to him or, in his absence, Carol Hamilton at extension 4576.



James R. Derryberry, Director
Planning, Building and Code Enforcement

Attachment

Distribution:

Mayor and City Council
Darrell Dearborn, Deputy City Manager
Ralph Qualls, Director of Public Works
Robert Dorman, Fire Chief
File

Wm. M. Lansdowne, Chief of Police
Amal Sinha, Chief Building Official
Frank Taylor, Redevelopment Executive Director
Leslie Parks, Director of Economic Development



Scale: 1"=2000'



File No: PDC99-06-053

District: 2

Quad No: 143

PROJECT MANAGER: FILL IN BLANKS; CHECK ALL CRITERIA WHICH APPLY; SIGN, DATE AND SUBMIT TO PRINCIPAL PLANNER FOR SIGNATURE. IF THE PROJECT IS ELIGIBLE FOR SPECIAL HANDLING, PRINCIPAL PLANNER WILL SUBMIT THIS WORKSHEET TO THE CLERICAL STAFF WHO WILL USE THIS WORKSHEET TO GENERATE A MEMO TO THE CITY MANAGER RECOMMENDING SPECIAL HANDLING AND, IF APPROVED, THE LETTER TO THE APPLICANT; OR IF THE PROJECT IS NOT ELIGIBLE FOR SPECIAL HANDLING, THIS WORKSHEET SHOULD BE PLACED DIRECTLY IN THE PROJECT FILE AFTER PRINCIPAL PLANNER SIGNATURE.

WP MACRO: ALT F10 SHMEMO

WORKSHEET

COUNCIL DISTRICT: 2

SPECIAL HANDLING DESIGNATION WORKSHEET

(based on the Special Handling Criteria in Council Policy No. 6-17)

Project Name Coyote Valley Research Park Project File # PDC 99-06-053
Project Location Both sides of Santa Teresa Blvd, north of Bailey Avenue Date Filed 6/17/99
Project Description Planned Development Reverting from A(PD) to A to allow approximately 6,600,000 square feet of campus industrial uses.

A. MUST MEET EITHER THE FOLLOWING CONDITION:

SH5 ☐ The project is a publicly-assisted housing project that provides at least 15 single-family detached units or 25 single/multi-family attached units.

OR

B. MUST MEET BOTH OF THE FOLLOWING:

SH1 ☒ The project will be user built or built to suit for the user.
 The land user has indicated a strong interest in occupying the project.

AND

C. MUST MEET ONE OF THE FOLLOWING:

SH3 ☒ The project will generate and/or retain at least 500 jobs in San Jose.
(The number of jobs this project will generate is ~~about~~ approximately 20,000)

SH4 ☒ The project will directly benefit a substantial portion of San Jose's citizens and/or have a highly favorable impact on the City's image.

SH6 ☐ The project meets at least three of the following:

SH6A ☐ a. The project substantially improves the City's image and/or provides important cultural benefits.

(Over)



City of San Jose

Department of City Planning, Building and Code Enforcement

801 North First Street, Room 400
San Jose, CA 95110

(408)277-4576 (408)277-3250 Fax

The following standard referral letter was sent to the recipients listed below, along with a copy of the site plan for this permit application. Comments are requested to be submitted no later than 14 days from the referral date which appears below and on the mailed letter:

The above referenced project, Planned Development Rezoning of a 688 gross acre site to allow 6.6 million square feet of campus industrial and research and development space, located at both sides of Santa Teresa Boulevard, northerly of Bailey Avenue and southerly of Tulare Hill, was filed with the City of San Jose and is currently being reviewed by the Department of City Planning, Building and Code Enforcement Staff.

Your comments on this project may be submitted in writing no later than [14 days from referral date below]. Please refer to the project using the file number above. If you are unable to forward comments by this date, or if you need additional information or have any other questions, please contact me at (408) 277-4576.

Thank you,
Jeff Roche
Project Manager

Organization(s) receiving referral

PDC99-06-053

6/22/99	Sierra Club Loma Prieta Chapter
6/22/99	SC Valley Audubon Society
6/22/99	Santa Clara Co Creek Coalition
6/22/99	S.C. Co. Fish and Game
6/22/99	Lifeweb
6/22/99	Guadalupe-Coyote Resource District
6/22/99	Greenbelt Alliance of S.C. Co.
6/22/99	Coyote Creek Riparian Station
6/22/99	Committee for Green Foothills
6/22/99	Clean South Bay
6/22/99	California Native Plant Society
6/21/99	Union Pacific Railroad
6/21/99	San Jose Water Company
6/21/99	Great Oaks Water Company



SMITH ENGINEERING & MANAGEMENT

December 2, 1999

Theodore A. Russell, Esq.
Sheppard, Mullin, Richter & Hampton LLP
Four Embarcadero Center, 17th Floor
San Francisco, California 94111-4106

**Subject: Review of Recirculated Draft Environmental Impact Report
for the Greenline/Urban Growth Boundary, City of San Jose Sphere of
Influence, October, 1999.**

Dear Mr. Russell:

At the request of Sheppard, Mullin, Richter & Hampton LLP, I have reviewed the October, 1999 Recirculated Draft Environmental Impact Report (RDEIR) on the proposed City of San Jose Greenline/Urban Growth Boundary (UGB). My review focuses on transportation aspects of the document. I have previously submitted formal reviews of earlier editions of environmental documentation on the Greenline/UGB project. This letter documents the findings of my review on the current DEIR.

- 1. The RDEIR admits that there is a system of local roadways, major collector streets and major roadways serving lands outside the Greenline but inside the City's Sphere of Influence.**

The first three Transportation sections (page 30 of the RDEIR) add text to page 105 of the previous EIR that was found inadequate by the Court. The initial section is entitled *Roadways*. The new text describes the roadways outside the Greenline only in a brief narrative. No specific mapping or quantification of mileage of roadways by functional type is provided. However, the new text does disclose that there is a network of roadways serving lands outside the Greenline including five major collectors, five other major roadways and a system of two-lane public streets and private roadways providing access to those lands and linking them to areas inside the Greenbelt.

- 2. The RDEIR characterization of traffic outside the Greenline but inside the Sphere of Influence is unsupported and speculative. The City has presented no evidence of having performed any formal analysis of traffic conditions in those areas.**

The second RDEIR transportation section indicated as additive to page 105 of the previous inadequate EIR is entitled *Traffic Conditions*. This section purports to describe traffic conditions on the roadways serving areas outside the Greenline. However, no traffic count data or Level Of Service analysis is provided. The content is limited to a generalized, subjective characterization of traffic. This superficial characterization is an inadequate treatment of the critical issues under study in this RDEIR. The new document also fails to describe levels of traffic that the existing roadway system outside the Greenline could reasonably support. It is fair to say that the roadway system outside the Greenline could sustain traffic from a considerably higher level of development outside the Greenline than now exists without suffering the severe congestion that characterizes much of the transportation system inside the Greenline and that is a byproduct of almost any development inside the Greenline.

- 3. Although discussion of the City's *Tranplan* traffic model occupies 25 percent of the entire transportation section of the RDEIR, the *Tranplan* model was not actually used to analyze traffic conditions in the area outside the Greenline but inside the Sphere of Influence.**

The third RDEIR transportation section additive to page 105 of the previous EIR entitled *Tranplan Model* is a brief description of the City of San Jose's traffic forecasting analysis procedure. The text reveals that the *Tranplan* process did not perform any analysis of the roadway network outside the Greenline based on the incomprehensible rationalization that "the urban street network does not extend outside the existing USA or the proposed UGB". This is in obvious contradiction to the RDEIR's description of the roadway network in the section entitled *Roadways* discussed above and of the Court's direction to the City to adequately analyze the impacts of the Greenline/Urban Growth Boundary on the existing environment outside of the UGB and within the City's Sphere of Influence. The roadways outside the Greenline could readily have been encoded in the *Tranplan* model and identified in screen lines for an analysis comparable to what was presented in previous versions of this EIR for other areas of the City. It is obvious that the City does not intend to provide any meaningful analysis of traffic impacts of the Greenline/UGB on the roadway system outside the Greenbelt. It has done none.

- 4. The RDEIR's characterizations of traffic impacts of the Greenline/UGB project on the area outside the Greenline but inside the Sphere of Influence are conclusory, unsupported and speculative.**

The fourth section of the RDEIR transportation element is a section additive to page 112 of the previous EIR entitled *Impacts Outside the Proposed UGB*. This conclusory section asserts that "adoption of the UGB will not create traffic impacts at any location".

This finding is not substantiated because the City has not conducted any traffic analysis capable of identifying impacts outside the Greenline. Our prior formally submitted comments on the previous incarnation of this EIR have convincingly documented that without the UGB there would inevitably be additional development in the areas outside its proposed limits. If the UGB is adopted, much of that development would be forced to infill locations where it would exacerbate existing and future severe traffic congestion conditions. The impacts of these changes in conditions have still not been analyzed.

- 5. The entire RDEIR transportation analysis is inadequate and fatally flawed because the City is concurrently considering massive development in the Coyote Urban Reserve near the Greenline that would substantially affect traffic conditions in the area outside the Greenline but inside the Sphere of Influence. The effects of this development in the Coyote Urban Reserve was not analyzed in the RDEIR or in the previous environmental documentation on the Greenline/UGB project.**

The entire analysis is flawed because the City of San Jose is concurrently considering a major project outside the Urban Service Area (USA) that is not considered in the *Tranplan Model* transportation analysis used in this study, in the previous editions of the EIR on the Greenline/UGB or in the 2020 General Plan EIR analysis. This is the Coyote Valley Research Park in the Coyote Urban Reserve area (City of San Jose Department of City Planning, Building and Code Enforcement file number PDC-99-06-053). The proposed development would provide 6.6 million square feet of research and development space, the employment site for 20,000 workers, on a 688 acre site in the Urban Reserve. In addition, the Coyote Valley Research Park would provide the water, flood control and electric power infrastructure to serve development of an additional 756 acre area in the Coyote Urban Reserve.

In all of the analysis of the Greenline/UGB that the City has performed, it was presumed that the Coyote Urban Reserve would not be utilized for urban development until after year 2020. The 20,000 jobs in the Coyote Valley Research Park project that are unanticipated in the transportation analysis would cause the creation of an additional 14,900 households¹ in the region as the result of those jobs that are also unanticipated in the transportation analysis of this RDEIR or in the analysis of the General Plan itself. This development has not been taken into account in any of the traffic studies associated with the UGB. It is not even mentioned in the projects cited in Table 2, page 38 of the RDEIR, that are reportedly the basis of the cumulative analysis and the *Tranplan* traffic forecast model runs that were used for the transportation analysis².

¹ At the typical current employed residents per household rate of 1.34 persons.

² In the Item 4 above, we highlighted the City's admission in the RDEIR that its *Tranplan Model* was really not used to actually analyze the conditions on the roadway system outside the UGB but inside the City's Sphere of Influence. The City ran the *Tranplan Model* for an other purpose (analysis of other General Plan amendments) and point to it as an analysis source in the RDEIR but admit that the City had structured it so it provided no meaningful analysis for roads outside the UGB. The point here is that even had the City attempted to extract meaningful analysis on the roads outside the UGB from the *Tranplan* runs they cite, those analyses would have been significantly flawed and inadequate because of the

This omission in the RDEIR analysis is inexplicable since the City certainly had considerable advance knowledge of the significant impending change in the structure of the General Plan (development of the Urban Reserve two decades prior to year 2020) in the immediate proximity of the Greenline well before the RDEIR was circulated. The project application form for the Coyote Valley Research Park was filed with the City on 6-17-99. The City's Notice of Preparation of a Draft Environmental Impact Report on the Coyote Valley Research Park was filed on 9-8-99. The RDEIR on the Greenline/UGB was not circulated until 10-22-99. (The Court's order finding the previous EIR on the Greenline/UGB inadequate was not issued until 10-13-99 so there is no possibility that the RDEIR was already in an essentially complete state when the City became aware of the Coyote Valley Research Park project. The fact that the RDEIR was recirculated only nine days after the date of Court's record of decision is, however, in correspondence to the superficial content of the RDEIR.)

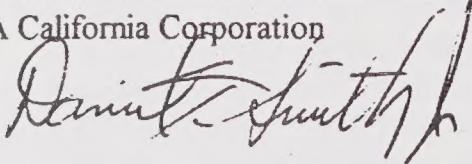
The change in the General Plan to allow large scale urban development in the Coyote Valley Urban Reserve prior to year 2020 would have significant transportation impacts by adding on the order of 150,000 new daily vehicle trips in the region, mostly in close proximity to the Greenline. This tripmaking, that was totally unanticipated in the transportation analysis for the environmental documentation for either the General Plan or the Greenline/UGB, could significantly alter the conclusions of the transportation analysis in this RDEIR, had it been taken into account. The location of the Coyote Valley Research Park project adjacent to the Greenline and directly tributary to major roads that traverse the Greenline such as U.S. 101, Monterey Road, Santa Teresa Boulevard, Bailey Avenue and McKean Road would certainly have substantial impact on traffic conditions in the area outside the Greenline but inside the Sphere of Influence. The failure to consider the effects of the Coyote Valley Research Park project in the RDEIR renders the document inadequate.

This concludes our current comments on these matters.

Sincerely,

SMITH ENGINEERING & MANAGEMENT

A California Corporation



Daniel T. Smith Jr., P.E.
President

omission of the significant changes in the General Plan inherent in the Coyote Valley Research Park development.

Memorandum

To: Ted Russell, Sheppard Mullin Richter & Hampton
From: Mundie & Associates
Subject: San Jose Greenline/Urban Growth Boundary: Review of the Recirculated Draft EIR
Date: November 24, 1999

We have reviewed the Recirculated Draft Environmental Impact Report (RDEIR) for the Greenline/Urban Growth Boundary, San Jose Sphere of Influence, submitted by the City of San Jose in response to the requirement imposed by the ruling of October 13.

The RDEIR appears to omit or improperly limit discussion of four related and critical issues:

1. Direct Impacts of the Proposed UGB on Development in Coyote Valley

Development of the Coyote Valley Urban Reserve (CVUR) is a concept that has been long discussed, and firmly rejected, by the City of San Jose in its past planning efforts. For example, the discussion of the CVUR in the San Jose 2020 General Plan, adopted in 1994, states (p. 152), "Future urban development is expected outside of the timeframe of this General Plan and can only be considered conceptually in this plan." The General Plan goes on to define certain prerequisite conditions (which have come to be known as "triggers") for development of the CVUR, and describes a vision of "a very urban, pedestrian-oriented and independent community characterized by high density housing, supportive businesses and land uses, and Campus Industrial land uses" that would accommodate 20,000 to 25,000 dwelling units and approximately 50,000 jobs.

The Final EIR (Revised) on the San Jose 2020 General Plan (July, 1994) reinforces the message that development of Coyote Valley would not be permitted within the time frame of the Plan. It states (p. 52), "The existing General Plan allows for the development of both the South Almaden Valley and Coyote Valley Urban Reserves. The General Plan update would only allow for the development of the South Almaden Valley Urban Reserve during the timeframe of the Plan." On p. 57, the FEIR states, "The update would allow for development of 2,000 [housing] units in the South Almaden Valley Urban Reserve, but would not allow for development in the Coyote Valley Urban Reserve during the timeframe of the Plan."

Like the General Plan and the General Plan EIR, the original EIR on the proposed UGB also states directly that the CVUR is not expected to be developed within the time horizon of the current General Plan, and therefore does not evaluate the potential environmental impacts of development there. (Various pages; see our appended memo of August, 1998, which discusses the treatment of the CVUR in the DEIR of May, 1998.)

In the alignment proposed, the UGB nevertheless leaves two locations for expansion of the City's established Urban Service Area (USA) within the limits of the UGB: the South Almaden Valley Urban Reserve (SAVUR) and the Coyote Valley Urban Reserve (CVUR). *If the alignment of the*

UGB were consistent with the General Plan and the General Plan EIR, it would have been drawn to exclude the CVUR from the area available for development.

Notwithstanding the repeated assertions that CVUR will not be developed within the time frame of the current General Plan, the City has now accepted an application from Cisco Systems to rezone a portion of the Coyote Valley Urban Reserve to permit development of an industrial campus, intended to house 20,000 jobs, in the Coyote Valley Urban Reserve (File # PDC99-06-053, dated June 17, 1999), and the Initial Study for the RDEIR omits the language found in previous documents asserting that the CVUR will not be developed within the time frame of the San Jose 2020 General Plan. This change is a clear departure from the previous condition. It would be a direct result of the adoption of a UGB in the location currently drawn, because the UGB allows no locations other than the two Urban Reserves for future development of urban uses. By eliminating alternative sites for major new urban development, the UGB – if adopted – will therefore have a significant impact on the timing of new development within the CVUR, because it will focus all development pressure on the two urban reserves.

Beyond the acceptance of an application for development in the CVUR, the City has accepted an application for a General Plan Amendment that would increase the height limit in the CVUR from 90 feet to 120 feet (GP99-T-3) and has issued a Notice of Preparation of a Draft Environmental Impact Report (NOP) for the Proposed Coyote Valley Research Park Planned Development Rezoning (File # PDCSH 99-06-053). These two actions clearly indicate that the City will seriously consider the rezoning application, and that the proposed development cannot be dismissed as “speculative.”

The impact of development in Coyote will not be limited to the addition of 20,000 jobs to the potential employment growth of San Jose; instead, it will be buildout of the Specific Plan that is ultimately adopted for that area. As noted above, the General Plan envisions a community of 50,000 jobs and 20,000 to 25,000 housing units. This level of development will generate traffic, with associated impacts on air quality, as well as demand for public facilities and services.

Because the CVUR extends south along U.S. 101 much farther than any of the surrounding area within the USA or the UGB, comprising a peninsula that extends southward toward Morgan Hill much farther than the developable area on either side, development of this area will generate precisely the impacts that the City has purported to try to avoid by adopting a UGB: growth in locations that are distant from the central city, with the resulting demand for extension of infrastructure, construction of new public facilities, and long travel distances for police and other mobile public service personnel.

Further, the amount of housing included in the General Plan vision for CVUR is unlikely to accommodate the number of jobs planned for the area. Table 1, below, derives an estimate of the number of jobs per household implied by ABAG's projections of jobs and households in San Jose between 2000 and 2020, and the number of housing units that would be required for 50,000 additional jobs (assuming a housing vacancy rate of five percent). The most conservative (lowest) assumption, in 2020 – that is, the year in which the average number of jobs per household would be greatest, and, therefore, the amount of housing needed would be smallest – more than 37,000 housing units would be needed to house the 50,000 workers envisioned in Coyote Valley. With a vision of only 20,000 to 25,000 housing units, the General Plan vision would result in a shortfall of 12,000 to 17,000 housing units.

Table 1
Envisioned Jobs and Required Housing Units

Year	Jobs	Households	Jobs per Household	Households Needed for 50,000 Jobs	Total Housing Units Needed*
2000	389,820	290,800	1.34	37,299	39,262
2005	426,000	307,750	1.38	36,121	38,022
2010	450,180	325,280	1.38	36,128	38,029
2015	470,000	334,900	1.40	35,628	37,503
2020	486,230	342,970	1.42	35,268	37,125

* Assumes five percent vacancy rate.

Source: ABAG, *Projections 98*; Mundie & Associates

The additional housing units required to accommodate Coyote Valley workers would either be located within the UGB or beyond the San Jose sphere of influence. If they are within the UGB, the housing capacity of the area within the USA would have to be further intensified to allow for the development of 12,000 to 17,000 more units than are currently anticipated, with resulting impacts on traffic congestion, air quality, and public facilities and services. If they are beyond the sphere of influence, then they will create the impacts associated with spillover and leapfrog development that we have identified in previous memos, including conversion of open space and agricultural land to urban uses, regional traffic congestion, and associated air quality impacts.

2. Change in the Underlying Growth Projection

The underlying growth projection discussed on pp. 10–11 of the Initial Study (appended to the RDEIR) is inappropriate because (a) a subsequent growth projection, extending through the year 2020 (the horizon year of the General Plan), is available and should be used, and (b) consideration of the Cisco business park application and/or a Specific Plan for development of Coyote Valley – which, as noted above, was dismissed from the realm of the possible in previous planning documents – will change the underlying projection further by expanding the City's employment capacity.

a. **Projections through 2020.** Like the May, 1998 DEIR, the Initial Study for the RDEIR reviews the projections of population growth published by the Association of Bay Area Governments (ABAG; *Projections 98*) and concludes that the General Plan has ample development capacity to accommodate all projected growth. Specifically, the RDEIR (on pp. 10-11) compares ABAG's projection of 34,480 new households between 2000 and 2010 to the Plan's potential to accommodate 38,400 new dwelling units. This comparison is flawed because:

- *It fails to allow a housing vacancy rate.* Conventionally, a five percent vacancy allowance is thought to be necessary to assure smooth operation of the housing market. allowing five percent vacancies for only the 34,480 new households would require 1,815 unoccupied housing units, for a total of 36,295 total new units between 2000 and 2010. To achieve this level of buildout, all but 2,105 (five percent) of the possible additional units would have to be built by the end of that period.
- *It does not consider housing demand through 2020, which is the time horizon of the General Plan.* The ABAG projection anticipates 34,480 new households (requiring 36,295

new housing units, assuming a five percent vacancy rate) between 2000 and 2010, and another 17,690 households (requiring 18,620 housing units) between 2010 and 2020. With capacity for 38,400 housing units, the General Plan falls short of the demand projected by ABAG by more than 16,500 housing units. This shortfall does not consider demand that would result from the implementation of the Cisco project in Coyote Valley.

Projections through the year 2020, provided by ABAG's *Projections 98*, were not available at the time the General Plan was adopted, but they have been available since the beginning of 1998. Notwithstanding the availability of these projections, the RDEIR continues the City's practice of using projections that extend only through 2010. The RDEIR should instead refer to the year 2020 projections, which are coterminous with the horizon year of the General Plan, to evaluate the adequacy of the City's ability to accommodate housing demand for the full term of its Plan.

- b. **Change in the Amount of Employment Growth Accommodated by the Plan.** The application for the Cisco business park in the CVUR, which would ultimately accommodate 20,000 jobs, not only would have direct environmental impacts in the Coyote Valley area, but would also change the underlying employment growth projection for the General Plan.
- Because the Cisco site was not considered to be developable before 2020 and not included in the inventory of developable land in the General Plan, it is reasonable to conclude that approval of that development application would increase the City's capacity to accommodate employment growth beyond the 126,000 new jobs between 1995 and 2010 anticipated in the Plan (see General Plan Figure 13, p. 34). Unless the City proposes to decrease the potential for employment growth in other parts of the City if and when it approves the Cisco project, it must incorporate these additional jobs into its cumulative impact analysis for the General Plan and, currently, for the proposed Greenline/UGB.
 - Additional employment growth of up to 50,000 jobs (including Cisco) envisioned for Coyote Valley will carry with it additional demand for housing and public services, neither of which has been considered in the General Plan EIR or any of the Greenline/UGB environmental documents.

Consideration of a development proposal for the formerly-dismissed Coyote Valley is a significant change in conditions from the May, 1998 DEIR on the Greenline/UGB, and would require analysis of the environmental consequences of such development.

3. Inadequate Analysis of Cumulative Impacts

The RDEIR states, on page 38, that the list of currently-pending General Plan amendments was "evaluated together with the proposed UGB and the existing General Plan to determine whether or not any cumulatively significant impacts might result from approval of these amendments and of the UGB when considered in combination with the implementation of the General Plan."

The project list used in this analysis, however, is incomplete. Specifically, an application for the Cisco Systems business park, which would contain 6.6 million square feet of building space on 385 acres of land in Coyote Valley (excluding the parcels reserved for open space), has been filed with the City but, because the application is not in the form of a General Plan Amendment, is not included in the project list considered in the UGB cumulative analysis. This is a huge omission in view of the scale of the Cisco project and the types of environmental impacts the General Plan itself anticipates in the Coyote Valley.

The fact that the Cisco project escaped the UGB's cumulative net raises the possibility that there may be other projects in the offing for which applications have been filed or are pending, which have not been included in the UGB's project list because they do not take the form of a General Plan Amendment. How many such projects have not been included, and the scale of projects omitted, is not known. It is inappropriate to fail to consider pending projects as part of the cumulative context solely on the grounds that they would require a General Plan Amendment.

The City of San Jose has issued a Notice of Preparation (NOP) for an EIR on the Cisco proposal, but – in light of the timing of the various projects – it is not sufficient to assert that environmental impacts of that project will be addressed in the noticed EIR. Because the proposal would significantly change amount of growth permitted by the General Plan and the demand for housing associated with the planned employment growth, it should be considered explicitly in the Greenline/UGB environmental analysis.

4. Failure to Satisfy the Criteria for Further Review Established in the Initial Study (Changed Conditions)

The Initial Study, appended to the RDEIR, states (page 9):

“The analyses in this section are all based upon the assumption described in the UGB FEIR, that the proposed UGB simply reinforces existing General Plan policies which limit development outside of the USA. Therefore, the amount of planned development would not change with the adoption of the UGB. Furthermore, the UGB FEIR identifies what cumulative impacts would result from implementation of the existing General Plan with the UGB in place.

“The following discussion summarizes the current physical conditions in the project area, and compares those conditions to the 1998 existing setting described in the UGB FEIR to determine if project conditions changed in the one and a half years since the FEIR was prepared.”

The ensuing discussion does not, however, live up to its commitment of determining whether conditions have changed, because the description of the Urban Reserves presented in the Land Use section of the Initial Study does not state that Coyote Valley is presumed not to develop during the life of the current General Plan. This document is the first in which that assertion does not appear, even though the Cisco application – which was filed with the City in June, 1999 – is nowhere mentioned. This change is significant, for the reasons discussed above.

These omissions are important because the text of the Initial Study establishes a basis for the material presented in the main text of the RDEIR.

Memorandum

To: Jack Rubens, Sheppard Mullin

From: Suzanne Lampert

Subject: San Jose Greenline/UGB DEIR: Discussion of Impacts Associated with Development in the Urban Reserves

Date: August 17, 1998

One of the subjects that you and I discussed last week was the response to a comment that appears at the bottom of p. 65 of the First Amendment to the DEIR. The response asserts that "the DEIR evaluates the potential impacts of urbanizing the Coyote Valley Urban Reserve, to the extent that such impacts can be identified at this time." Later (pp. 97 and 99), there are responses that refer to the locations where the DEIR addresses the impacts of development in the two urban reserves.

As we agreed, I have looked up those impact discussions to confirm that they appear as promised and to remind us of what they said. The most relevant portions are quoted in the table below. As I read this material, I was interested to find the expected severity of the impacts in light of the fact that the City has always emphasized the severity of impacts in the eastern hills, where the YCS property is located.

In addition to environmental obstacles and limitations, the DEIR cites some practical obstacles to development in the Urban Reserves in the form of inadequate utility systems, including insufficient downstream stormwater runoff capacity and the need for supplemental wastewater conveyance capacity. This combination of factors suggests that development in the Urban Reserves *cannot* occur within an early time frame, may encounter impediments that can never be overcome, and may well have impacts of a greater severity than incremental development adjacent to the existing Urban Service Area boundary (e.g., on the YCS property).

I'll be interested to know if you share my reaction.

Numbers in parentheses are references to pages in the DEIR. Where the discussion occupies both the South Almaden and Coyote Valley columns as one entry, it applies to both.

Impact	South Almaden Valley Urban Reserve	Coyote Valley Urban Reserve
Land Use		
Agricultural Land	Loss of 1,050 acres of primarily agricultural land, including approx. 500 acres of prime agricultural land (28)	Loss of approximately 2,000 acres of primarily agricultural land, virtually all of which is prime farmland or farmland of statewide importance (29)
Visual and Aesthetic Quality		
Visual Impacts	Significantly alter the existing rural visual character of the area and extend visual urbanization beyond the City's current urban boundaries (36)	Not anticipated within the planning horizon of the City's General Plan, although ultimately visual impacts similar to those anticipated in the South Almaden Valley Urban Reserve can be expected (36)
Scenic Routes	Could result in significant visual impacts upon Almaden Road and McKean Road, two County-designated scenic routes . . . impacts . . . would result from the introduction of urban development into an existing rural setting (37)	Not anticipated within the planning horizon of the City's General Plan; as with SAVUR, will be mitigated by policies of the Specific Plan to be prepared prior to urbanization (37)
Geology and Soils		
Geology and Soils	Weak and expansive soils may occur within both Urban Reserves. The presence of expansive or weak soils could potentially damage future residential development. Serpentine formations have been mapped in or near both Urban Reserves. Disturbance of any serpentine rock by future residential development would present potential health hazards associated with airborne asbestos. (45)	
	Moderate erosion potential (45)	Minimal erosion potential (45)
Seismic Hazards	Includes concealed portions of the potentially active Shannon fault zone, and areas identified as being within a City of San Jose Potential Hazard Zone. Liquefaction potential is low to moderate. (47)	Also contains portions of the Shannon fault. Considered to have high potential for seismically induced liquefaction, and a potential for consequent ground failure. (47)

Impact	South Almaden Valley Urban Reserve	Coyote Valley Urban Reserve
Flooding, Drainage, and Water Quality		
Flooding	Portions lie within the 100-Year Flood zones along Alamitos, Calero, and Santa Teresa Creeks. Development would produce stormwater runoff that could potentially exceed the current capacity of the existing Alamitos, Calero, and Santa Teresa Creeks. . . . Future development would not be allowed to increase runoff above the (planned) design capacity of the downstream improvements. Stormwater detention facilities may, therefore, be required . . . (55)	Within the flood plain of Fisher Creek. Development would produce stormwater runoff that would exceed the capacity of the downstream stretches of Fisher and Coyote Creeks. In conformance with General Plan policies, such development would not be allowed to contribute to flooding impacts on other properties. Stormwater detention facilities may, therefore, be required . . . (55)
Cultural Resources		
Historic Resources	Five potentially historic resources . . . are within the area. (65)	While there is not documentation available on the potential for historical resources in the CVUR, urban development is not anticipated to occur there during the General Plan horizon. Research and documentation on the potential for historic resources would be prepared prior to completion of a Specific Plan that would identify the actual development potential for the area. (65)
Hazardous Materials		
Hazardous Materials	Near surface soils (in the SAVUR) may be impacted with residual pesticides from historic use. In addition, some farms may have used underground or above ground fuel storage tanks. Similar conditions exist in the CVUR, where agricultural operations that have included greenhouses may have resulted in localized contamination from pesticides, other agricultural chemicals, and petroleum products. (71)	

Impact	South Almaden Valley Urban Reserve	Coyote Valley Urban Reserve
Vegetation and Wildlife		
Sensitive Habitats		... urban development is not anticipated to occur in the Coyote Valley Urban Reserve during the time frame of the <i>San Jose 2020 General Plan</i>. (84)
	Landscaping associated with new development would introduce additional non-native plant species into these areas. Invasive plant species could become established along creeks and in adjacent grassland areas. Domestic pets, primarily dogs and cats, would potentially impact native animal species through hunting activities. (84) Development of these areas would impact wildlife species that use cropland, orchard, grassland, chaparral, and riparian habitats. The habitat values of portions of the urban reserves have already been reduced by agricultural use and residential development. (84-85).	
Riparian Corridors	Channels (Alamitos, Calero, and Santa Teresa Creeks in SAVUR, a portion of Fisher Creek in CVUR) could be impacted by the construction of new roadway crossings, culverts, and any required flood control measures. Potential impacts to wildlife that use the riparian corridors along Alamitos, Calero, Santa Teresa, and Fisher Creeks could occur as a result of increased lighting, urban runoff, and various effects of human occupancy, including litter, predation by pets, and noise. (85)	
Special Status Species	Several special status plants and animal species are known to historically or currently occur within the vicinity. A number of these species are restricted to the serpentine habitats in the nearby Santa Teresa Hills and Coyote Peak area. Portions of the area potentially could be used for foraging by birds of prey including Blackshouldered Kite and Cooper's Hawk. Other special status species that potentially could be represent include the California tiger salamander, Horned Lark, Northern Shrike, Burrowing Owl and balsamroot. (86)	Special status species that may be found include California red legged frog, Burrowing Owls, California tiger salamander, Horned Lark, Santa Clara Valley dudleya, Metcalf Canyon jewel-flower, most beautiful jewel-flower, Mount Hamilton thistle, fragrant fritillary, San Francisco wood rat, and western pond turtle. (86)

Impact	South Almaden Valley Urban Reserve	Coyote Valley Urban Reserve
Transportation	(no discussion)	(no discussion)
Air Quality	(no discussion)	(no discussion)
Noise	(no discussion)	(no discussion)
Energy	(no discussion)	(no discussion)
Utilities and Service Systems		
Sanitary Sewer/ Wastewater Treatment	Insufficient downstream sanitary sewer capacity. Development would require the installation of supplemental sewers in portions of Camden Avenue and Almaden Expressway. (141)	Insufficient downstream sanitary sewer capacity. Although not anticipated to occur by 2020, development will require installation of a major supplemental sewer line and a pump station south of Tulare Hill. (141)
Availability of Public Systems		
Fire Protection	The planned relocation of Engine 28 to McKean Road near Harry Road will provide adequate engine service within the recommended four minute response time to the entire SAVUR area. The addition of a truck company at this station will provide adequate truck service to the SAVUR area. (148)	Eventual development will require expansion of existing nearby fire protection facilities, and may require a new fire station. The need for a new station and its location will be evaluated in the Specific Plan and associated CEQA review. (148)

RECEIVED

JUL 09 1999

CITY OF SAN JOSE
PLANNING DEPARTMENT

GREAT OAKS WATER COMPANY

P. O. Box 23490
San Jose, California 95153
(408) 227-9540

July 8, 1999

JEFF ROCHE
CITY OF SAN JOSE, CA
DEPT OF PLANNING, BUILDING AND CODE ENFORCEMENT
801 N. FIRST STREET
SAN JOSE, CA 95110-1795

RE: CITY FILE# PDC99-06-053

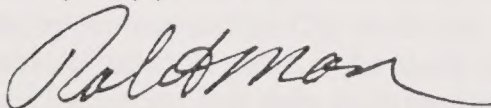
Dear Mr. Roche,

The area in the planned development rezoning, PDC 99-06-053, is within the California Public Utilities Commission certificated service area of Great Oaks Water Company.

The CPUC certificate obligates Great Oaks to provide public water service to that area.

Great Oaks has already started discussions with the developer to plan for the public water supply.

Very truly yours,



Robert Moore
Director of Construction Services



GUADALUPE - COYOTE RESOURCE CONSERVATION DISTRICT

888 NORTH FIRST STREET RM. 204, SAN JOSE, CA 95112-6314
OFFICE (408) 289-5888 FAX (408) 993-8728 email: gcrod@pacbell.net

July 15, 1999

Mr. Jeff Roche
Project Manager
Department of Planning, Building and Code Enforcement
801 North First St.
San Jose, CA 95110

RE: City File No. PDC99-06-053

Dear Mr. Roche;

On behalf of the Guadalupe-Coyote Resource Conservation District, I am submitting the following comments on the above referenced project. Thank you for allowing us an extension of time. In reviewing the map that was sent, we note that little information was provided in regards to the proposed project. Our comments will therefore address general concerns.

We note that Fisher Creek and associated wetlands are present on the project site. Any development at this site should adhere to San Jose Riparian Corridor Policy Guidelines.

However, we also note that much of the site is, at a minimum, a seasonal wetland and we thus have concerns about the appropriateness of developing this site. Due to the potential for flooding and impacts to Coyote Creek, we recommend against development of this site.

We are also concerned about impacts to open space and the San Jose greenbelt. This particular site extends from Tulare Hill south to Bailey Avenue; just south of Bailey Avenue lies the border with Morgan Hill. We think that development of this area is inappropriate because it allows development almost up to the border with Morgan Hill; we also note that the lands between Bailey Avenue and the City border are owned by development companies with similar plans to develop industrial parks. If the above referenced project is approved, it will be *the* major step in developing San Jose right up to the border with Morgan Hill. If San Jose develops south, and Morgan Hill develops north, there will be no greenbelt between the two cities. Does the City have assurances from Morgan Hill that there will be no development north to San Jose?

In order to preserve a coherent greenbelt between the two cities, as well as to protect on-site wetlands and nearby Coyote Creek, we recommend that the proposed project not be approved,

and that the natural barrier of Tulare Hill and the adjacent Santa Teresa Hills continue to serve as a barrier to development south, marking a natural transition from urban land use to greenbelt.



Rick Bernardi
Director

JUL-22-99 09:45 AM
By Fax and Mail

Sierra Club - Loma Prieta Chapter

3921 E. Bayshore Road, Suite 204

Palo Alto, CA 94303

Tel. No (650) 390-8414 Fax No. (650) 390-8497

Mr. Jeff Roche,

City of San Jose

Department of Planning, Building & Code Enforcement

801 N. First St., Room 400

San Jose, CA 95110-1795

July 22, 1999

Dear Mr. Roche:

We write in connection with the proposed development of campus industrial and research facilities by Coyote Valley Research Park LLC (the "Developer") in the northern tip of the Coyote Valley area of San Jose (the "Development"). As an environmental group, we are interested in the Development because it raises a number of issues including: open space protection, agricultural preservation, water quality and flooding issues, air quality impacts and growth inducement. We understand that this Development requires a rezoning of the area and, possibly, an amendment to the General Plan of the City of San Jose, among other things. We are interested in participating in the review of all applications required in connection with the Development, submitting comments on or proposed revisions to documents for public comment, and attending public hearings and meetings on or related to such applications. We therefore request that Sierra Club be included in the mailing list for such hearings, meetings and other official notifications and that it be given access to all applications and related documents.

Given the magnitude of the Development, we believe it is reasonable for the Developer and the public to expect from the San Jose Planning Department a timeline for the review and approval of all applications required for the Development by the City of San Jose. This timeline would set out a schedule of the significant milestones in the review and approval process. We would appreciate being informed of such timeline, even if it may be tentative or preliminary at this time, and any updates or revisions on the same. In fact, if the City and the Developer have already agreed to a timeline, we would appreciate being informed of such timeline. If there is no timeline at this time, please inform us as soon as the same has been prepared. Moreover, although the schedule may not have yet been drawn up, perhaps, the approvals needed for the Development have already been defined. Please inform us of the approvals so far determined to be necessary for the Development.

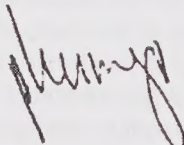
We also understand that the Developer is preparing an Environmental Impact Report on the Development. It is the practice that even prior to the preparation of such an Environment Impact Report and, indeed, to the commitment by the Developer to this sizable Development that preliminary or special studies (e.g. traffic and circulation, flooding, impacts on public services etc...) should have already been made by the Developer or the San Jose Planning Department. We would appreciate being given access to such special studies or reports.

Finally, we are undertaking a study of the alternatives to the Coyote Valley location of the Development within the existing developed areas of the City of San Jose and nearer existing public infrastructures, utilities and services, including areas which may be suitable for redevelopment and rezoning. We would appreciate being able to discuss such alternatives with a planner or planners involved in the downtown core area and other areas suitable for redevelopment. We therefore request an appointment to discuss such alternatives with the concerned planner or planners. In connection with this study, we are also requesting for specific information on the Development, including population scenarios, usage of electric, water and other utilities, transportation requirements and other information and inputs normally incorporated in a master development plan of this type and scale of development.

We trust that our request is in order. Thank you for your assistance and consideration.

Sincerely,

Sierra Club

by: 

CC: City Mayor
City Council
Planning Commission
Planning Director
City Attorney



SIERRA
CLUB
FOUNDED 1892

Mr. Jeff Roche
City of San Jose
Department of Planning, Building & Code Enforcement
801 N. First St., Room 400
San Jose, CA 95110-1795

RECEIVED

AUG 04 1999

CITY OF SAN JOSE
PLANNING DEPARTMENT

August 2, 1999

Re: Proposed Campus Industrial and Research Facility in Coyote Valley
to be developed by Coyote Valley Research Park LLC

Dear Mr. Roche:

Further to our communication to you dated July 22, 1999 and to which we have not yet received a reply, we reiterate our request for information contained therein, particularly the request for information regarding alternatives to the Coyote Valley location of the above-captioned development (the "Development").

Below are some alternative locations for the aforesaid development which we believe to be more consistent with the land usage policies and developmental objectives of the City of San Jose as contained in the City's 2020 General Plan, to wit:

1. Downtown Core and Frame Areas;
2. Guadalupe Intensification Corridor;
3. Stevens Creek Boulevard/West San Carlos Street Intensification Corridor;
4. Campus Industrial/Research and Development Areas of Evergreen; and,
5. North San Jose.

Areas for redevelopment near the City's existing public infrastructure, utilities and services appear to be still readily available. Just recently, we received a letter from the City's Planning Department regarding a proposed 70 acre development involving the construction of 1,015,000 square feet of office, research and development and riverfront commercial areas. The proposed development is located at the northwest corner of Gold Street and Moffet Park. A copy of this letter is enclosed for your convenient reference.

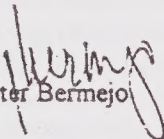
Again, we request an appointment to discuss such alternatives with the concerned planner or planners. In connection with this study, we are also still requesting for specific information on the Development, including population scenarios, usage of electric, water and other utilities, transportation requirements and other information and inputs normally incorporated in a master development plan of this type and scale of development.

We trust that our request is in order. Thank you for your assistance and consideration.

Sincerely,

Sierra Club

by:


Peter Bermejo

CC: City Mayor
City Council
Planning Commission
Planning Director
City Attorney



CITY OF SAN JOSÉ, CALIFORNIA

DEPARTMENT OF PLANNING, BUILDING AND CODE ENFORCEMENT
801 NORTH FIRST STREET
SAN JOSE, CALIFORNIA 95110-1795

JAMES R. DERRYBERRY
DIRECTOR

September 3, 1999

Mr. Randy Lamb
Gibson Speno
60 S. Market Street, Suite 1120
San José, CA 95113

Dear Randy:

RE: FILE NO. PDCSH 99-06-053

Your application, referenced above, for development located at the northerly side of Bailey Avenue, on both sides of Santa Teresa Boulevard in the City of San José has undergone a preliminary review. The purpose of this review is to provide you with information as early as possible so you can appropriately respond to the issues identified below. While I am continuing to work on your application, your timely response will further expedite the process. Please understand that this is a preliminary review and additional comments may be made at a later time. If more than one application is listed above, the information below pertains to all of them.

The Director of Planning has designated your project for Special Handling. Top priority is being given to the expeditious processing and review of your proposal. A public hearing will be scheduled for the earliest possible date.

As you are aware, when your application was submitted, a lot of information and drawings/plan sheets were not included. It is our understanding that as both the Master Plan for North Coyote Valley and the required Environmental Impact Report progress, that this information and these drawings will be added to your PD Zoning Application and associated plans.

COMPLETENESS OF YOUR APPLICATION

Permit Streamlining Act: Pursuant to the Permit Streamlining Act (Government Code Chapter 4.5 of Title 7), your application is not complete. Prior to a determination that the project application is complete, the following issues must be addressed.

1. **Supporting Documentation:** Information identified in the requirements for our permit and environmental clearance applications is missing from your submittal.

See highlighted portion(s) of attached PD Zoning Application.

2. **Plans:** Information identified in our application requirements for the following is missing from your submittal.

- Conceptual Building Elevations
 - Conceptual Floor Plans
 - Conceptual Landscape Plan
3. **Plan Revisions:** Specific comments and concerns are included on the enclosed check print. Please return this check print with (10) full-size and (1) 11" x 17" reduced set(s) of revised plans as part of your next submittal.
4. **Construction Storm Water Discharge:** The City's National Pollutant Discharge Elimination System (NPDES) permit requires that new development must incorporate Best Management Practices (BMPs) to control the discharge of storm water pollutants including sediments associated with construction activities. Examples of BMPs are contained in the Publication *Blueprint for a Clean Bay*. For a copy of this publication and further information about specific BMPs, please contact the Department of Public Works at (408) 277-5161.

COMPLIANCE WITH CITY ORDINANCES, POLICIES, AND GUIDELINES

Compliance: This application has been reviewed for compliance with the following City Ordinances, Policies, and Guidelines. The remaining comments in this letter are based on this review.

- San José 2020 General Plan
- Industrial Design Guidelines
- Landscape and Irrigation Guidelines
- Outdoor Lighting Policy, City Council Policy 4-3

COMMENTS FROM OTHER CITY DEPARTMENTS

Department of Parks Recreation and Neighborhood Services: A memorandum is attached for your information. These comments are preliminary and are intended to notify you about potential requirements for development. Concerns about any of these issues should be brought to my attention so that I can coordinate with appropriate City staff on your behalf.

Environmental Services Department: A memorandum is attached for your information. These comments are preliminary and are intended to notify you about potential requirements for development. Concerns about any of these issues should be brought to my attention so that I can coordinate with appropriate City staff on your behalf.

Fire Department: A memorandum is attached for your information. These comments are preliminary and are intended to notify you about potential requirements for development. Concerns about any of these issues should be brought to my attention so that I can coordinate with

appropriate City staff on your behalf.

Police Department: A memorandum is attached for your information. These comments are preliminary and are intended to notify you about potential requirements for development. Concerns about any of these issues should be brought to my attention so that I can coordinate with appropriate City staff on your behalf.

COMMENTS FROM OTHER AGENCIES

Other Agencies: I have requested that the following agencies identify any potential development issues for your project. I will notify you when I receive their response.

- City of San José, Public Works Department

Other Agencies: I have received the following comments from other agencies about your project.

- Linda Elkind
- Sierra Club
- Guadalupe-Coyote Resource Conservation District
- Great Oaks Water Company
- County of Santa Clara, Parks and Recreation Department

PROJECT DESIGN COMMENTS

As proposed, your project design raises some concerns. I would like to work with you to resolve the following issues so that I can ultimately recommend that your project be approved.

1. *Environmental Setting:* Please see attached plans.
2. *Interface with Surrounding Uses:* As has been discussed earlier, your project interfaces, along Monterey Highway, the hills to the west and north, and along both Santa Teresa and Bailey are very important. At this time, there is insufficient information in your project plans to review your interface with surrounding uses and major streets.
3. *Project Setbacks:* Please see attached plans.
4. *Parking, Loading and Circulation:* For safety reasons, it would seem inappropriate to mix vehicular and bicycle traffic in the major public streets, and that a system that physically separates them except at intersections and driveways would be better. Please clarify. Please see attached plans for additional comments.
5. *Non-Residential Parking Analysis:* An analysis of the total available parking on site, broken down by number and percentage of full and compact spaces, is required. This analysis must identify the total parking demand by specifying both existing and proposed building square footages with parking generation calculations by use.
6. *Building Architecture:* Please see attached plans.

7. *Project Landscaping*: Please see attached plans.

If you have any questions regarding the information contained in this letter, please feel free to give me a call at (408) 277-4576.

Sincerely,

Jeff Roche
Project Manager

Attachments

C: David A. Taran, Coyote Valley Research Park, LLC, 150 Almaden Blvd., #700, San José, CA 95113
Barry Ludwig, Devcon Construction, 555 Los Coches St., Milpitas, CA 95035
William Wagner, HMH. Inc., P.O. Box 611510, San José, CA 95161-1510
Robert Weyhe, 97 Willow St., San José, CA 95110

JR:mt/207-02



C124925269

RETURN TO: IGSL

LOAN PERIOD	1	2	3
Home Use			
	4	5	6

ALL BOOKS MAY BE RECALLED AFTER 7 DAYS.

DUE AS STAMPED BELOW.

SENT ON ILL		
NOV 07 2008		
U.C. BERKELEY		

ILS: DD99
M 8-05UNIVERSITY OF CALIFORNIA, BERKELEY
Berkeley, California 94720-6000

